

(2021) 04 MP CK 0034

In the Madhya Pradesh High Court

Case No : Criminal Appeal No.2552 Of 20201

Amit Kirar And Others

APPELLANT

Vs

State Of Madhya Pradesh And Others

RESPONDENT

Date of Decision : 09-04-2021

Acts Referred:

Scheduled Caste And Scheduled Tribe (Prevention Of Atrocities) Act, 1989 — Section 3(1) (s), 3(2)(Va), 14(A)(2)
Code Of Criminal Procedure, 1973 — Section 438
Indian Penal Code, 1860 — Section 147, 148, 149, 294, 323, 324, 506

Citation : (2021) 04 MP CK 0034

Hon'ble Judges : Vishal Mishra, J

Bench : Single Bench

Advocate : Ashish Singh Jadoun, Arjun Parihar

Final Decision : Allowed

Judgement

Vishal Mishra, J

The present appeal has been filed under Section 14 (A)(2) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 (for brevity 'the Atrocities Act') against the order dated 26.3.2021 passed by Special Judge (Atrocities), Guna whereby the application of the appellants under Section 438 of Cr.P.C. seeking anticipatory bail has been rejected in connection with Crime No.211 of 2021 registered at Police Station Bamori district Guna for the offence under Sections 323, 294, 324, 506, 147, 148, 149 of IPC and 3 (1) (r) and 3(1) (s) and 3 (2) (Va) of the Atrocities Act.

It is submitted by counsel for the appellants that the appellants have been falsely implicated in the case and they have not committed any offence. It is submitted that previously, first complaint was lodged against the complainant party by the family of appellants being Crime No.210 of 2021 at PS Bamori district Guna for offence under Section 148 and 149 of IPC. It is submitted that there is no specific allegation of inflicting injuries against the present appellants nor there is

any allegation against they present appellants of calling the complainant party by their caste and abused them. As per instructions received from the client, main allegations are against Mansingh and Govind and they are ready to surrender within seven days. So far as maintainability of this appeal is concerned, they have relied upon the order passed by the coordinate bench of this Court in the case of Atendra Singh Rawat vs. State of M.P. being Cr.A. No.7295/2018 whereby the coordinate bench has considered the amended provisions of the Act and also considered Section 438 of Cr.P.C. and has allowed the application. Hence, he has prayed for grant of bail.

Per contra, learned Panel Lawyer has opposed the bail application stating that there are specific allegation against the appellants but he fairly submits that allegations are omnibus in nature and main allegations are against co-accused Mansingh and Govind.

Considering the over all facts and circumstances of the case and considering the law laid down by coordinate Bench of this court in the case of Attender Singh Rawat (Supra), this Court deems it appropriate to allow this application. Accordingly, the application is allowed. It is hereby directed that in the event of arrest subject to verification of the fact that co-accused Mansingh and Govind surrender before the trial court within seven days from today, the appellants be released on bail on their furnishing personal bond of Rs.50,000/- (Rupees Fifty Thousand only) each with one solvent surety of the like amount to the satisfaction of Investigation Officer/trial Court, as the case may be with submission of written undertaking that he will abide by the terms and conditions of different circulars, orders as well as guidelines issued by Central Government, State Government as well as Local Administration for maintaining social distancing, hygiene etc to avoid Novel Corona Virus (COVID-19) pandemic and they will have to install Arogya Setu App, if not already installed.

This order will remain operative subject to compliance of the following conditions by the appellant:-

1. The appellants will comply with all the terms and conditions of the bond executed by them;
2. The appellants will cooperate in the investigation/trial, as the case may be;
3. The appellants will not indulge themselves in extending inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade her from disclosing such facts to the Court or to the Police Officer,
4. The appellants shall not commit an offence similar to the offence of which they are accused;
5. The appellants will not seek unnecessary adjournments during the trial;
6. The appellants will not leave India without previous permission of the trial Court/Investigating Officer, as the case may be and

7. The appellants will inform the concerned S.H.O. of concerned Police Station about their residential addresses in the said area and it would be the duty of the Public Prosecutor to send E-copy of this order to SHO of concerned police station as well as Superintendent of Police concerned who shall inform the concerned SHO regarding the same.

Application stands allowed and stands disposed of.

E-copy of this order be provided to the appellants and E-copy of this order be sent to the trial Court concerned for compliance. It is made clear that E-copy of this order shall be treated as certified copy for practical purposes in respect of this order.

CC as per rules.