
(2019) 09 JH CK 0072

In the Jharkhand High Court

Case No : Criminal Appeal (S.J.) No. 811 Of 2019

Ashok Sao

APPELLANT

Vs

State Of Jharkhand And Ors

RESPONDENT

Date of Decision : 25-09-2019

Acts Referred:

Indian Penal Code, 1860 — Section 34, 307, 323, 371, 379, 506
Scheduled Castes And Scheduled Tribes (Prevention Of Atrocities) Act, 1989 — Section 3, 4

Citation : (2019) 09 JH CK 0072

Hon'ble Judges : Anubha Rawat Choudhary, J

Bench : Single Bench

Advocate : Vishal Kumar Trivedi, Birendra Burman

Judgement

1. Heard counsel for the parties.

2. This appeal has been filed against the order dated 25.05.2019 passed in M.C.A. No. 543 of 2019, arising out of Complaint Case No. 43 of 2017, whereby the bail application of the appellant has been rejected by learned Special Judge, SC/ST Act, Giridih.

3. The complaint case was filed under Sections 341, 323, 307, 379, 506, 34 of the Indian Penal Code read with Section 3/4 of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989. Counsel for the appellant submits that as is apparent from the impugned order itself, cognizance has been taken under Sections 341, 323, 379, 506, 34 of the Indian Penal Code and Section 3/4 of the Scheduled Caste and Scheduled Tribe (Prevention of Atrocities) Act. Counsel for the appellant submits that the learned court below has failed to take note of the fact that neither in the petition it has been stated that the occurrence took place in a place within public view, nor there is any averment that the appellant is not a member of Scheduled Castes or Scheduled Tribes. He further submits that so far as sections 341, 323, 506, 34 of the Indian Penal Code are bailable, Section 379 of IPC as well as provisions of Scheduled Caste and

Scheduled Tribe (Prevention of Atrocities) Act are non bailable. Counsel further submits that in view of the facts and circumstances of this case, no case under the provisions of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act is made out against the appellant. Counsel further submits that this court in Cr. Appeal (S.J.) No. 506 of 2018 has been pleased to enlarge the co-accused namely Shankar Prasad Sharma @ Shankar Prasad and Shyam Nandan Tiwari @ Shyam Nandan Tiwari on anticipatory bail vide order dated 26.06.2018 by imposing certain conditions and he is also ready to abide by some conditions if this court is inclined to enlarge the appellant on bail. He further submits that another co-accused namely Sikandar Saw has been enlarged on anticipatory bail vide order dated 28.02.2019 in Cr. Appeal (S.J.) No. 1028 of 2018 as contained in Annexure-3 to this appeal.

4. Counsel for the State has opposed the prayer made by the appellant but at the same time he does not dispute the fact that aforesaid co-accused have been enlarged on anticipatory bail by co-ordinate Benches of this court. He further submits that if this court is inclined to enlarge the appellant on bail then some conditions may be put as has been done by this court in Cr. Appeal (S.J.) No. 506 of 2018 and the learned court below is directed to expedite the trial.

5. After hearing counsel for the parties and after considering the facts and circumstances of this case, particularly the fact that other co-accused have also been enlarged on anticipatory bail, this court is of the considered view that this is a fit case where the appellant should be released on bail.

6. Considering the aforesaid submissions, this court is inclined to enlarge the petitioner on bail on his furnishing bail bond of Rs. 25,000/- (Twenty five thousand) with two sureties of the like amount each to the satisfaction of learned Special Judge, SC/ST Act, Giridih, in connection with M.C.A. No. 543 of 2019 arising out of Complaint Case No. 43/2017, on the following conditions:

- (i) One of the bailors should be the family member of the appellant.
- (ii) The appellant shall appear before the learned court below on each and every date and on account of even single default, his bail bond will be cancelled by the learned court below.
- (iii) The appellant shall deposit a demand draft of Rs. 7500/- drawn in favour of the complainant/respondent no. 2 Manoj Kumar Das.
- (iv) The appellant will not disturb or annoy the complainant in any manner during pendency of this case.

7. In case the demand draft is deposited, the learned court below is directed to issue notice to the complainant and hand over the demand draft to the complainant on proper identification.

8. The impugned order dated 25.05.2019 passed by learned Special Judge, SC/ST Act, Giridih in M.C.A. No. 543/2019 is hereby set-aside.

9. The learned court below is directed to expedite the trial of the appellant.
10. Let this order be communicated to the court concerned through FAX.