

(2022) 08 MP CK 0029

In the Madhya Pradesh High Court

Case No : Criminal Appeal No. 6906 Of 2022

Ballu @ Shivkumar Rathore

APPELLANT

Vs

State Of Madhya Pradesh And Others

RESPONDENT

Date of Decision : 17-08-2022

Acts Referred:

Scheduled Caste And Scheduled Tribe (Prevention Of Atrocities) Act, 1989 — Section 3(2)(v), 14A, 14A(2)
Code Of Criminal Procedure, 1973 — Section 439
Indian Penal Code, 1860 — Section 201, 307

Citation : (2022) 08 MP CK 0029

Hon'ble Judges : Sunita Yadav, J

Bench : Single Bench

Advocate : Anant Kumar Bansal, Pramod Pachouri

Final Decision : Allowed

Judgement

Sunita Yadav, J

Learned Public Prosecutor has apprised this Court that respondent No.2/ complainant has been informed with regard to pendency of this appeal as required under section 14-A of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989.

Case Diary is perused.

Learned counsel for the rival parties are heard.

This first appeal under Section 14-A(2) of SC/ST (Prevention of Atrocities) Act assails the order dated 08.06.2022 passed by Special Judge, District Bhind, whereby application preferred by the appellant herein under Section 439 of Cr.P.C. has been rejected.

The appellant has been arrested by Police Station Mehgaon, District Bhind in connection with Crime No.114/2018 registered in relation to the offences

punishable under Sections 307, 201 of IPC and Section 3(2)(v) of SC/ST (Prevention of Atrocities) Act.

The allegation against the present appellant is that he fired at injured-Anil Jatav with an intention to kill him.

Learned counsel for the appellant submits that the appellant is innocent and has been falsely implicated in the present matter. He is in custody since 08.04.2022. He further submits that the incident occurred on 02.04.2018, however the FIR was lodged after a lapse of two days i.e. on 04.04.2018, for which no plausible explanation has been given. It is further submitted that the statement of the complainant was recorded after five months, in which allegation of firing at injured- Anil Jatav has been leveled against the present appellant. Statement of injured-Anil Jatav has also been recorded on 26.09.2018 after a lapse of five months. In pursuance to the memorandum of the accused, nothing has been recovered. After investigation, charge-sheet has been filed. There is no possibility of his absconding or tampering with the prosecution case and early conclusion of the trial will take time. The appellant is permanent resident of District Bhind. In these circumstances, learned counsel for the appellant prays for grant of bail to the appellant.

Learned Public Prosecutor for the State opposed the appeal and prayed for its rejection by contending that the appellant has criminal history, therefore, no case for grant of bail is made out.

In view of the facts and circumstances of the case specifically the delay in filing of the FIR against unknown persons and the statement of complainant and injured, recorded after a lapse of five months, but without commenting on the merits of the case, this appeal under Section 14(A) of SC/ST (Prevention of Atrocities) Act 1989 stands allowed and it is directed that the appellant be released on bail on furnishing a personal bond in the sum of Rs.50,000/- (Rs. Fifty Thousand only) with two solvent sureties in the like amount to the satisfaction of the concerned trial Court.

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

1. The appellant will comply with all the terms and conditions of the bond executed by him;
2. The appellant will cooperate in the investigation/trial, as the case may be;
3. The appellant will not indulge himself in extending inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him/her from disclosing such facts to the Court or to the Police Officer, as the case may be;
4. The appellant shall not commit an offence similar to the offence of which he is accused;

5. The appellant will not seek unnecessary adjournments during the trial; and
6. The appellant will not leave India without previous permission of the trial Court/Investigating Officer, as the case may be.

A copy of this order be sent to the Court concerned for compliance.

C.c. as per rules.