

(2021) 11 RAJ CK 0026
In the Rajasthan High Court
Case No : S.B. Criminal Appeal No. 845 Of 2021

Devkaran	Vs	APPELLANT
State Of Rajasthan And Others		RESPONDENT

Date of Decision : 16-11-2021

Acts Referred:

Scheduled Caste And Scheduled Tribe (Prevention Of Atrocities) Act, 1989 — Section 3(1)(2)(ii), 3(2)(va), 14A(2)
Indian Penal Code, 1860 — Section 376
Code Of Criminal Procedure, 1973 — Section 161, 164, 439

Citation : (2021) 11 RAJ CK 0026

Hon'ble Judges : Manoj Kumar Garg, J

Bench : Single Bench

Advocate : Sajjan Singh, Arun Kumar, B.S.Mertia

Final Decision : Dismissed

Judgement

Manoj Kumar Garg, J

This is the second criminal appeal preferred by the appellant under Section 14A (2) Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act. The first bail application of the appellant was dismissed as not pressed vide order dt. 16.07.2021.

Heard learned counsel for the appellant and learned public prosecutor. Perused the material available on record.

The appellant is in custody in connection with C.R. No.170/2021, Police Station Makrana, Distt. Nagaur for the offences under Sections 376 IPC and Section 3(1)(2)(ii), 3(2)(va) of SC/ST (Prevention of Atrocities) Act, against the order dated 04.09.2021 passed by the learned Special Judge SC/ST (Prevention of Atrocities) Cases, Merta in Criminal Misc. Case (Bail) No.144/2021, whereby the bail application preferred on behalf of the appellant under Section 439 Cr.P.C. was rejected.

Learned counsel for the appellant submits that the appellant has not committed the offences as alleged against him and he is innocent. It is further submitted that challan of the case has been presented and there are material contradictions in the statements of the prosecutrix recorded under Section 161 and 164 Cr.P.C. as well as in the FIR lodged by her. Learned counsel also submits that there is delay of four days in filing the FIR, which has not been explained. It is therefore prayed that appellant may be granted bail.

Per contra, learned Public Prosecutor and learned counsel for the complainant opposed the prayer made by the appellant.

Apparently, in the statements of the prosecutrix recorded under Section 161 & 164 Cr.P.C. there is specific allegation of rape against the appellant. Having regard to the entirety of facts and circumstances of the case and upon a consideration of the arguments advanced at the bar, this Court is not inclined to extend the benefit of bail to the appellant.

Accordingly, the criminal appeal filed by the appellant is dismissed. However, the appellant is at liberty to file a fresh appeal after recording the statements of the prosecutrix.