

(2020) 07 MP CK 0039
In the Madhya Pradesh High Court
Case No : Criminal Appeal No. 4063 Of 2020

Harpal Manjhi

APPELLANT

Vs

State of M.P

RESPONDENT

Date of Decision : 27-07-2020

Acts Referred:

Code Of Criminal Procedure, 1973 — Section 438

Indian Penal Code, 1860 — Section 406, 420

Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 — Section 3(2)(v), 14A

Citation : (2020) 07 MP CK 0039

Hon'ble Judges : S. A. Dharmadhikari, J

Bench : Single Bench

Advocate : Sarvesh Sharma, Rohit Mishra, Dharmendra Nayak,

Final Decision : Allowed

Judgement

In pursuance of the directions issued by the Apex Court and guidelines issued by the High Court of Madhya Pradesh in the wake of COVID-19

outbreak , the matter was taken up through video conferencing while adhering to the norms of social distancing prescribed by the Government.

Case Diary is perused.

Learned counsel for the rival parties are heard.

This appeal has been preferred under section 14A of the Act against the impugned order dated 10/07/2020 passed by Special Judge (under the

Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act (for short the Act)), Gwalior (M.P.), whereby appellant's application

under Section 438 of the Code of Criminal Procedure has been rejected by the Court below.

Appellant apprehends arrest in connection with Crime No.193/2020 registered at Police Station Inderganj District Gwalior (M.P.) for the offences

punishable under Sections 420 and 406 of the IPC and 3(2)(v) of the Act.

Allegation against the appellant and co-accused in short is that they entered into contract regarding construction of the house. Appellant has taken

amount of Rs. Twenty Lakh from the complainant in the year 2013 and entered into contract but after passage of time, neither amount has been

refunded nor construction has been completed as per the contract. On the aforesaid basis, crime has been registered.

Learned counsel for the appellant submits that he has falsely been implicated in the matter. There is no allegation of beating or harassing by the

appellant in relation to cast. The report has been lodged after elapse of seven years. Learned counsel for the appellant has relied on the judgment of

the Apex Court reported in V.Y. Jose & another Vs State of Gujarat and another 2009 (3) SCC 78 in which it has been held that breach of contract

can not be given a colour of criminal. Learned counsel for the appellant further submitted that in view of COVID-19 outbreak, detention of appellant

in already congested prisons may be detrimental. It is submitted that appellant is permanent resident of Gwalior and there is no likelihood of absconsion

or tampering with the prosecution evidence. With the aforesaid submissions prayer for grant of anticipatory bail is made.

On the other hand, learned Additional Advocate General and counsel for the complainant opposed the prayer for grant of bail.

At this stage, learned counsel for the appellant volunteered to deposit an amount of Rs. 10,000/- (Rs. Ten Thousand Only) in Prime Minister

Citizen Assistance and relief in Emergency Situation Fund (PM Cares Fund).

Taking into consideration the facts and circumstances of the case, but without expressing any opinion on merits of the case, I deem it appropriate to

extend the benefit of anticipatory bail to the appellant.

It is hereby directed that in the event of arrest of appellant he shall be released on bail on furnishing a personal bond of Rs.50,000/- (Rupees Fifty

Thousand only) with a local solvent surety of the like amount to the satisfaction of Arresting Authority.

The appellant shall also furnish a written undertaking that he will abide by the terms and conditions of various circulars, as well as, orders issued by the

Central Government, State Government and local administration from time to time such as maintaining social distancing, physical distancing, hygiene

etc. to avoid proliferation of Corona virus.

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

1. The appellant shall deposit an amount of Rs. 10,000/- (Rs.Ten Thousand Only) in Prime Minister Citizen Assistance and relief in

Emergency Situation Fund (PM Cares Fund). The appellant shall submit an attested photocopy of the receipt before the concerning

Court, for placing the same on record of this case.

2. The appellant shall install Aarogya Setu App (if not already installed) in his mobile phone.

3. The appellant will comply with all the terms and conditions of the bond executed by him;

4. The appellant will cooperate in the investigation/trial, as the case may be;

5. The appellant will not indulge 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;

6. The appellant will not seek unnecessary adjournments during the trial;

7. The appellant will not leave India without previous permission of the trial Court/Investigating Officer, as the case may be.

8. If the appellant commits any offence while being on anticipatory bail, then this order shall automatically stand cancelled without

reference to the Court.

Accordingly the appeal is allowed and the impugned order is hereby set aside.

Learned Panel Lawyer is directed to send an e-copy of this order to the Station House Officer of the concerned Police Station for information and

necessary action.

E- copy of this order be sent to the Court below, if possible by the office of this Court.

Certified copy/e-copy as per rules/directions.