

(2024) 01 MP CK 0043

In the Madhya Pradesh High Court

Case No : Criminal Appeal No. 155 Of 2024

Hemant And Others

APPELLANT

Vs

State Of Madhya Pradesh And Others

RESPONDENT

Date of Decision : 05-01-2024

Acts Referred:

Scheduled Caste And Scheduled Tribe (Prevention Of Atrocities) Act, 1989 — Section 3(1)(r), 3(1)(s), 3(2)(va), 14A(2), 15A, 18
Indian Penal Code, 1860 — Section 34, 293, 323, 336, 506
Madhya Pradesh Land Revenue Code, 1959 — Section 250
Code Of Criminal Procedure, 1973 — Section 438(2)

Citation : (2024) 01 MP CK 0043

Hon'ble Judges : Sunita Yadav, J

Bench : Single Bench

Advocate : Aniket Bhadoriya, Rohit Mishra

Judgement

Sunita Yadav, J

1. It is submitted by the Counsel for the State that the complainant has been informed about the pendency of this appeal, as required under Section 15-A of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act.

2. Case Diary is available.

3 . This appeal has been filed under Section 14-A(2) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 being aggrieved by the order dated 12.06.2023 passed by Special Judge (Atrocities) Guna rejecting the anticipatory bail application.

4. The appellant apprehends his arrest in Crime No.08/2023 registered by Police Station – AJK Guna, District Guna for offence punishable under Sections 294, 323, 336, 34, 506 of IPC and Sections 3(1)(r), 3(1)(s) & 3(2)(va) of SC/ST Act.

5. It is submitted by counsel for appellants that this Court in the case of Atendra Singh Rawat Vs. State of M.P., 2019 (2) MPLJ (Cri) 481 , has held that if the

allegations made against the accused do not make out a case under the provisions of the SC/ST (Prevention of Atrocities) Act, then the bar as contained under Section 18 of the Act would not apply. In the present case, an order under Section 250 of MPLR Code was issued against the complainant party with a specific finding that they have encroached upon the land belonging to the appellants. The incident is also alleged to have taken place on the plot. In-fact false allegations have been made in order to overcome the rigors of order passed under Section 250 of MPLR Code. It is further submitted that co-accused Santosh sen has since been enlarged on bail by co-ordinate Bench of this Court vide order dated 29/12/2023 passed in Cr.A. No. 8061/2023 and the case of present appellants are similar and akin to the case of said co-accused person. The appellants are ready and willing to cooperate in the investigation and the trial is likely to take sufficiently long time and there is no possibility of their absconding or tampering with prosecution case.

6 . Per contra, the appeal is vehemently opposed by Counsel for the State. It is submitted that in view of the bar as contained Section 18 of the Act, this appeal is not maintainable.

7. Heard learned counsel for the parties.

8 . So far as the question of maintainability of appeal for grant of anticipatory bail is concerned, this Court can always look into the allegations to find out as to whether a prima-facie offence under the provisions of SC/ST (Prevention of Atrocities) Act is made out or not. If the facts of present case are considered, then it appears that an order under Section 250 of MPLR Code was passed against complainant party and in-spite of that, they did not vacate the disputed land. Accordingly, the possibility of false implication or over implication or exercise of right of private defense by the appellants is not ruled out.

9 . Under these circumstances, this Court is of the considered opinion that the bar as contained under Section 18 of SC/ST (Prevention of Atrocities) Act will not apply.

10. Considering the facts and circumstances of the case and without commenting on the merits of the case, the appeal is allowed subject to condition that if the appellants appear before the Investigating Officer (Arresting Officer) on or before 10.01.2024, they shall be released on bail on their furnishing a personal bond in the sum of Rs.1,00,000/- (Rupees One Lac Only) with one surety in the like amount to the satisfaction of the Arresting Officer (Investigating Officer).

11. The appellants shall make themselves available for interrogation by the Investigating Officer as and when required. They shall further abide by the other conditions enumerated in sub-section (2) of Section 438 of Cr.P.C.

12. It is made clear that in case if the appellants fail to appear before the Investigating Officer (Arresting Authority) on or before 10.01.2024, then this order shall lose its effect and the Investigating Officer shall be at liberty to take

them in custody.

13. In the light of the judgment passed by the Supreme Court in the case of Aparna Bhat & Ors. vs. State of M.P. passed on 18/3/2021 in Criminal Appeal No.329/2021, the intimation regarding grant of bail be sent to the complainant.

14. CC as per rules.