

(2023) 10 MP CK 0054

In the Madhya Pradesh High Court

Case No : Criminal Appeal No. 13066 Of 2023

Hukumchand Kushwah

APPELLANT

Vs

State Of M.P And Others

RESPONDENT

Date of Decision : 13-10-2023

Acts Referred:

Scheduled Caste And Scheduled Tribe (Prevention Of Atrocities) Act, 1989 — Section 3(1)(r), 3(1)(s), 3(2)(va), 14A(2)
Code Of Criminal Procedure, 1973 — Section 438, 438(2)
Indian Penal Code, 1860 — Section 34, 294, 323, 452, 506

Citation : (2023) 10 MP CK 0054

Hon'ble Judges : Satyendra Kumar Singh, J

Bench : Single Bench

Advocate : Ankur Maheshwari, G.S.Chauhan

Final Decision : Allowed

Judgement

Satyendra Kumar Singh, J

1. Perused the case diary.

2. This first criminal appeal has been filed by the appellant under section 14-A (2) of the Schedule Caste and Schedule Tribe (Prevention of Atrocities) Act being aggrieved with the order dated 15.09.2023 passed by Special Judge (Atrocities), District Guna in Case No/Bail Application No.612/2023, whereby, the application filed by the appellant under section 438 of Cr.P.C has been rejected.

3. Appellant apprehends his arrest in connection with Crime No.14/2023 registered at Police Station AJK District Guna for commission of offences punishable under Sections 452, 323, 294, 506, 34 of IPC and under Sections 3(1)(r), 3(1)(s) and 3(2)(va) of the SC/ST (Prevention of Atrocities) Act.

4. Prosecution case, in brief, is that appellant and complainant Balwant are neighbors. On 22.06.2023 at about 08:30 hours, when complainant Balwant who is member of SC/ST community was sitting along-with her wife Deepa, mother

Shanti Bai in his house, appellant along-with other co-accused persons on previous enmity entered into his house and started abusing and insulting the complainant by calling his caste name and assaulted him with kicks and fists.

5 . Learned counsel for the appellant submits that as per prosecution's case the incident took place in the house of complainant, therefore, the ingredients of Sections 3(1)(r) and 3(1)(s) of SC/ST Act do not attract in the matter. He further submits that as the rest of the offences alleged are punishable for not more than seven years of imprisonment, therefore, offence punishable under Section 3(2) (va) of SC/ST Act is not made out against him. All the injuries found on the body of complainant are simple in nature. Appellant is an old aged person aged about 80 years. His custodial interrogation is not required. Under these circumstances considering the old age of appellant, he may be granted anticipatory bail.

6. Learned counsel for the respondent/State has opposed the appeal and submits that considering the bar contained u/S.18 of SC/ST Act, this appeal is not maintainable and appellant is not entitled for grant of anticipatory bail.

7 . Having considered the rival submissions, material pointed out by learned counsel for the appellant, nature of allegations alleged against the appellant so also the old age of appellant, without commenting anything on merits of the case, in view of this Court, appellant deserves to be enlarged on bail. Therefore, this appeal is allowed and the impugned order passed by the Special Court is hereby set aside.

8. It is directed that in the event of arrest or surrender of the appellant before Arresting Authority/Investigating Officer in relation to aforementioned crime number, he shall be enlarged on anticipatory bail upon his furnishing a personal bond in the sum of Rs.50,000/- (Rupees Fifty Thousand only) with one solvent surety in the like amount to the satisfaction of the Arresting Authority/ Investigating Officer.

9. The appellant shall made himself available for interrogation before the Investigating Officer as and when required and will cooperate in the investigation. He shall further abide by the conditions enumerated in sub-section (2) of Section 438 of the Code of Criminal Procedure.

10. It is made clear that the observations made in this order shall not affect the further proceeding of the Court below.

11. This Appeal stands allowed and disposed of. C. C. as per rules