

(2024) 02 RAJ CK 0041

In the Rajasthan High Court

Case No : Criminal Appeal (SB) No. 2538 Of 2023

Kailash Giri

APPELLANT

Vs

State Of Rajasthan And Others

RESPONDENT

Date of Decision : 13-02-2024

Acts Referred:

Scheduled Caste And Scheduled Tribe (Prevention Of Atrocities) Act, 1989 — Section 3(1)(r)(s), 3(1)(w)(i), 3(2)(va), 14A(2)
Indian Penal Code, 1860 — Section 354A, 376, 376D, 384, 452, 506
Information Technology Act, 2000 — Section 67A
Code Of Criminal Procedure, 1973 — Section 439

Citation : (2024) 02 RAJ CK 0041

Hon'ble Judges : Vinit Kumar Mathur, J

Bench : Single Bench

Advocate : S.S. Shaktawat, S.K. Bhati

Final Decision : Allowed

Judgement

Vinit Kumar Mathur, J

1. The instant appeal has been filed under Section 14A(2) SC/ ST (Prevention of Atrocities) Act on behalf of the appellant, who is in custody in connection with FIR No.96/2021, Police Station Bhadsora, District Chittorgarh for the offences under Sections 452, 384, 354-A, 506, 376, 376/D of I.P.C., Sections 3(1)(r)(s), 3(1)(w)(i) and 3(2)(va) of the SC/ST (Prevention of Atrocities) Act and Section 67 A of Information & Technology Act against the order dated 03.10.2023 passed by the Special Judge, SC/ST (Prevention of Atrocities) Cases, Chittorgarh, whereby, the bail application preferred under Section 439 Cr.P.C. on behalf of the appellant was rejected.

2. Heard. Perused the material available on record.

3. It is submitted by learned counsel for the appellant that after the rejection of the first appeal of the appellant on 09.11.2022, the learned trial Court has not proceeded with the trial. The statement of the prosecutrix has been recorded

before the trial Court. Learned counsel further submits that the co-accused Rahul, being a juvenile, has already been enlarged on bail. He submits that the allegations against the appellant and co-accused Rahul are verbatim the same. The prosecutrix is a major married lady of 30 years. Learned counsel submits that the appellant has suffered incarceration for more than two and half years and the trial is not likely to be concluded in near future. He, therefore, prays that the appellant may be enlarged on bail.

4. Learned Public Prosecutor opposes the appeal.

5. Thus, having regard to the entirety of facts and circumstances as available on record and upon a consideration of the arguments advanced, this Court is of the opinion that the appellant deserves to be enlarged on bail.

6. Consequently, the instant appeal is allowed. The impugned order dated 03.10.2023 passed by the Special Judge, SC/ST (Prevention of Atrocities) Cases, Chittorgarh is set aside. It is ordered that the accused-appellant Kailash Giri S/o Shankar Giri Goswami arrested in connection with FIR No.96/2021, Police Station Bhadsora, District Chittorgarh shall be released on bail subject to the condition that the appellant shall mark his attendance every three months before the Station House Officer of the nearest police station in the area of his residence. If the condition so imposed is violated by the appellant in any manner, learned Public Prosecutor shall be free to move an appropriate application for cancellation of bail. The appellant shall also furnish a personal bond of Rs. 50,000/- (Rupees: Fifty Thousand Only) and two sureties of Rs. 25,000/- (Rupees: Twenty Five Thousand Only) each to the satisfaction of the learned trial Court with the stipulation to appear before that Court on all dates of hearing and as and when called upon to do so.

6. However, it is made clear that after the enlargement on bail in this case, if the appellant is found involved in any other criminal case, then no leniency will be extended in his case in future.