

(2019) 09 MP CK 0016

In the Madhya Pradesh High Court

Case No : Criminal Appeal No. 7794 Of 2019

Karan Pal And Another

APPELLANT

Vs

State Of Madhya Pradesh& Anr

RESPONDENT

Date of Decision : 16-09-2019

Acts Referred:

Indian Penal Code, 1860 — Section 34, 294, 323, 325, 452, 506
Scheduled Castes And Scheduled Tribes (Prevention Of Atrocities) Act, 1989 — Section 3(1)(da,dha), 3(2)(va), 14(A)(2)
Code Of Criminal Procedure, 1973 — Section 438

Citation : (2019) 09 MP CK 0016

Hon'ble Judges : Anand Pathak, J

Bench : Single Bench

Advocate : Manish Nayak, Vikrant Sharma, Ravindra Singh Rajput

Final Decision : Allowed

Judgement

With consent heard finally.

Present appeal has been filed under Section 14 (A)(2) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 (for brevity 'the Act') against the order dated 05-09-2019 passed by Special Judge (Atrocities), Gwalior whereby the application of the appellant under Section 438 of Cr.P.C. seeking anticipatory bail has been rejected.

Appellants apprehend their arrest in connection with offences punishable u/Ss. 323, 294, 452, 506, 325, 34 of IPC and Sections 3(1) (da,dha), 3(2)(va) of the Act registered as Crime No.337/2019 at Police Station Purani Chhawani District Gwalior.

It is submitted by learned counsel for the appellants that they are apprehending their arrest on the basis of registration of false case referred above. Initially father of the appellants filed a complaint on 18-07-2019 at Police Station, Purani Chhawani District Gwalior vide crime No.283/2019 for the offence under Sections

323, 324, 294, 506, 34 of IPC. Later on, on 19-07-2019 complainant party also filed a complaint against the present appellants as a counter-blast. All offences are bailable except Section 452 of IPC and provisions of Special Statute. Confinement would bring social disrepute and professional inconvenience. He relied upon the judgment of this Court in the matter of Atendra Singh Rawat Vs. State of Madhya Pradesh and another passed in Cr.A.No.7295/2018 to submit that anticipatory bail under the provision of Atrocities Act is maintainable. They undertake to cooperate in investigation and trial and would make themselves available as and when required by the investigating officer and trial Court. They further undertake to perform some community services. Thus, prayed for grant of anticipatory bail.

On the other hand, learned counsel for the State opposed the bail application and prayed for the dismissal of the same.

Learned counsel for the complainant also opposed the prayer and prayed for dismissal of bail application.

Heard learned counsel for the parties and perused the case diary. Considering the submissions made by learned counsel for the parties as well as the fact situation of the case, without expressing any opinion on merits of the case, I deem it appropriate to allow this appeal in the following terms.

It is hereby directed that in the event of arrest, the appellants shall be released on bail on furnishing personal bond of Rs.1,00,000/-(Rupees One Lac only) each with one solvent surety each of the like amount to the satisfaction of Arresting Authority/ Investigating Authority.

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

1. The appellants will comply with all the terms and conditions of the bond executed by them;
2. The appellants will cooperate in the investigation/trial, as the case may be;
3. The appellants will not indulge themselves 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;
4. The appellants shall not commit an offence similar to the offence of which they are accused;
5. The appellants will not seek unnecessary adjournments during the trial; and
6. The appellants will not leave India without previous permission of the trial Court/Investigating Officer, as the case may be.
7. Appellants shall mark their presence before the concerned Police Station on every Friday from 10 am to 2 pm till charge-sheet is filed.

8. As per the undertaking of the counsel on behalf of the appellants for social/ community work, the appellants are directed to visit District Hospital, Morar District Gwalior in Outdoor Patient Department (OPD) and serve the patients for one year on every Monday and Tuesday between 09:00 am to 1 pm from this month of September till September, 2020 so that they may learn the lesson to believe in peaceful co-existence in the society and become a better citizen. Chief Medical Health Officer (CMHO), Gwalior/Hospital Superintendent, Morar District Gwalior as the case may be, shall permit the appellants to work in the Outdoor Patient Department only while assisting the ward boys and male nurses to serve the patients. They would not be allowed to move in the Wards and ICU etc. CMHO, Gwalior/Hospital Superintendent, District Hospital Morar District Gwalior shall use the service of appellants in maintaining cleanliness in the building and serving the patients and doing work like First Aid etc., so that appellants may inculcate some basic knowledge of First Aid or Emergency Care of patients which may be helpful for unforeseen exigencies or natural calamities wherein appellants may be helpful as a volunteer.

A copy of this order be sent to CMHO, Gwalior/Hospital Superintendent, District Hospital, Morar for information and ensuring compliance of this order. CMHO, Gwalior/ Hospital Superintendent, District Hospital, Morar may inform the Registry of this Court, if any default is made by the appellants. Even otherwise, CMHO/Hospital Superintendent as the case may be may submit a report about the work done by the appellants after completion of their stint with community service in every two months. The report may be submitted in November, 2019. On the other hand, appellants shall also have to submit a report in every month about their experience of community service before this Court, which shall be placed before this Court under the caption "Direction".

This direction is made by this Court as a test case to address the Anatomy of Violence and Evil by process of Creation and a step towards Alignment with Nature. The natural instinct of compassion, service, love and mercy needs to be rekindled for human existence as they are innately engrained attributes of human existence.

Copy of this order be sent to the District Judge, Gwalior, CMHO, Gwalior/Hospital Superintendent, District Hospital, Morar District Gwalior and the concerned trial Court for information and necessary compliance.

Certified copy as per rules.