
(2023) 11 RAJ CK 0080

In the Rajasthan High Court

Case No : Criminal Appeal (SB) No. 2352 Of 2023

Kundanmal And Others

APPELLANT

Vs

State Of Rajasthan And Others

RESPONDENT

Date of Decision : 21-11-2023

Acts Referred:

Scheduled Caste And Scheduled Tribe (Prevention Of Atrocities) Act, 1989 — Section 3(1)(v)(r)(s), 14A(2)
Indian Penal Code, 1860 — Section 420, 406, 448
Code Of Criminal Procedure, 1973 — Section 438

Citation : (2023) 11 RAJ CK 0080

Hon'ble Judges : Farjand Ali, J

Bench : Single Bench

Advocate : Saeena Bano, Sampat Prajapat, Mahipal Bishnoi

Final Decision : Allowed

Judgement

Farjand Ali, J

1. The instant appeal has been filed under Section 14-A(2) SC/ ST (Prevention of Atrocities) Act on behalf of the appellants, who are in custody in connection with FIR No.316/2023, Police Station Kotwali, District Barmer for the offences under Sections 420, 406 and 448 of IPC and Sections 3(1)(v)(r)(s) (w) of the SC/ST (Prevention of Atrocities) Act, being aggrieved by the order dated 25.10.2023, whereby the pre-arrest bail application under Section 438 of the Cr.P.C. has been rejected by the trial Court.

2. Learned Public Prosecutor submits that the complainant of the case has been intimated regarding hearing of the bail plea. However, no one has turned up on her behalf.

3. It is submitted by learned counsel for the appellants that the appellants have falsely been implicated in the present case and they have nothing to do with the alleged offences. Expeditious culmination of trial is not a seeming fate and no

fruitful purpose would be served by keeping the appellants behind the bars. He, therefore, prays that benefit of bail may be granted to the appellants.

4. Per contra, learned learned Public Prosecutor has opposed the bail application.

5. Heard learned counsel for the appellants and learned Public Prosecutor and perused the material available on record.

6. Upon consideration of the fact that prima facie, the offences under Sections 420 and 406 of IPC, are not made out even if the allegations as set out in the FIR are taken on its face value. Since, there was a transaction between the parties and they were having a cordial relationship, therefore, this submission cannot be ignored at this stage that any offence falling under the provision of SC/ST Act, is made out. The reliance is placed upon the judgment of Hon'ble the Supreme Court in the case of Prathvi Raj Chauhan Vs. Union of India (UOI) & Ors. reported in AIR 2020 SC 1036. The present is not the case where custodial intervention is required. There are no compelling circumstances for which, the appellants may be directed to first appear before jail authorities and then to get bail.

7. Consequently, the instant appeal is allowed. The impugned order dated 25.10.2023 passed by the Special Judge, SC/ST (Prevention of Atrocities) Act Cases, Barmer is set aside. It is ordered that the accused-appellants (1) Kundanmal S/o Ishwar Das (2) Pramod S/o Kundanmal (3) Lalit S/o Kundanmal, arrested in connection with aforesaid FIR, shall be released on bail, if not wanted in any other case, provided each of them furnishes a personal bond in the sum of Rs. 50,000/- and two sureties of Rs. 25,000/- 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.