

(2017) 11 RAJ CK 0051
In the Rajasthan High Court
Case No : 1854 of 2017

Malkeet Singh S/o Sh. Tara Singh

APPELLANT

Vs

State of Rajasthan

RESPONDENT

Date of Decision : 17-11-2017

Acts Referred:

[Arms Act, 1959](#), [Section 27](#) - Punishment for using arms, etc

[Scheduled Castes and Scheduled Tribes \(Prevention of Atrocities\) Act, 1989](#), [Section 14A\(2\)](#)

Citation : (2017) 11 RAJ CK 0051

Hon'ble Judges : P.K. Lohra

Bench : SINGLE BENCH

Advocate : S.D. Goswami, Pankaj Awasthi

Final Decision : Allowed

Judgement

1. Accused-appellant has laid this appeal under Section 14A(2) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 (for short, "Act of 1989") to assail impugned order dated 18.09.2017 passed by Special Judge, Scheduled Castes and Scheduled Tribes (Prevention of Atrocities), Hanumangarh (for short, "learned trial Court") rejecting his post-arrest bail application.

2. The facts apposite for the purpose of this appeal are that complainant Sunderpal lodged FIR No.120/2017 of Police Station Sadar against main accused Mahendra and six others including the appellant castigated them for offences under Sections 302, 447,

143 IPC & Section 27 of the Arms Act.

3. After completion of investigation, Police submitted charge-sheet in the matter and presently trial is under progress before learned trial Court.

4. Assailing the impugned order, it is argued by learned counsel for the appellant that learned trial Court has not examined the matter in its entirety including the alleged inculpatory evidence against the appellant. Learned counsel has further submitted that essentially allegations of causing death of Ram Kumar (deceased) by use of firearm is attributed to main accused Mahendra. Learned counsel has further submitted that during investigation firearm is also recovered from co-accused Mahendra and no incriminating material is recovered from the appellant. It is further submitted by learned counsel that simple allegation against the appellant is that he was present at the scene of occurrence accompanying the main accused but no specific overt-act in the scuffle is attributed to him. It is in that background, learned counsel has argued that impugned order be annulled and appellant may be enlarged on bail.

5. Per contra, learned Public Prosecutor has opposed the appeal with full vehemence. It is submitted by learned Public Prosecutor that a discretionary order passed by the learned trial Court is not liable to be tinkered with in exercise of appellate jurisdiction.

6. I have bestowed my consideration to the arguments advanced at the Bar, perused the impugned order and the other materials available on record.

7. Having regard to the facts and circumstances of the case, I feel persuaded to set aside the impugned order.

8. Accordingly, the instant appeal is allowed, the impugned order passed by learned trial Court is set aside and it is ordered

that accused-appellant, Malkeet Singh S/o Sh. Tara Singh, arrested in connection with F.I.R. No.120/2017, Police Station Sadar, District Hanumangarh, may be released on bail; provided he furnishes a personal bond of Rs.50,000/- with two surety bonds of Rs.25,000/- each to the satisfaction of 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.