

(2023) 08 MP CK 0042
In the Madhya Pradesh High Court
Case No : Criminal Appeal No. 9993 Of 2023

Meharwan Pal

APPELLANT

Vs

State Of Madhya Pradesh And Others

RESPONDENT

Date of Decision : 07-08-2023

Acts Referred:

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

Citation : (2023) 08 MP CK 0042

Hon'ble Judges : Satyendra Kumar Singh, J

Bench : Single Bench

Advocate : Ashish Singh Jadon, Girdhari Singh Chauhan

Final Decision : Allowed/Disposed Of

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 of the Schedule Caste and Schedule Tribe (Prevention of Atrocities) Act being aggrieved with the order dated 09.06.2023 passed by Special Judge, Guna in Case No/Bail Application No.363/2023, 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.391/2023 registered at Police Station Cantt., District Guna for commission of offences punishable under Sections 323, 294, 506, 34 of IPC and under Sections 3(1) (r), 3(1)(s), 3(2)(va) of the SC/ST (Prevention of Atrocities) Act.

4. Prosecution case, in brief is that on 09.05.2023 at about 7:30 pm, appellant along-with other co-accused persons, knowing the fact that complainant is a member of SC/ST community, abused him and assaulted him and his father by

sticks and threatened him.

5. Learned counsel for the appellant submits that it is nowhere alleged in the FIR against the appellant that he insulted the complainant calling his caste. After lodging of the FIR, complainant with an intention to implicate the appellant in SC/ST Act, in his statement recorded during investigation made false allegations in this regard. No offence under SC/ST Act is made out against the appellant and rest of the offences alleged against the appellant are bailable. This Court vide order dated 30.6.2023 passed in CRA No.8060/2023 has granted bail to co-accused Ashok Pal. Under these circumstances, appellant is entitled for grant of anticipatory bail.

6. Learned Public Prosecutor for the State has opposed the appeal and prayed for its rejection. Counsel for the State submits that considering the bar contained u/S.18 of SC/ST Act for grant of anticipatory bail, the 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 in the FIR lodged by the complainant and also considering the fact that except offence punishable under SC/ST Act, rest of the offences are bailable in nature, 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 make 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