

(2019) 09 MP CK 0083

In the Madhya Pradesh High Court

Case No : Criminal Appeal No. 7677 Of 2019

Mukesh S/O Prem Singh Rajpoot

APPELLANT

Vs

The State Of Madhya Pradesh

RESPONDENT

Date of Decision : 27-09-2019

Acts Referred:

Scheduled Caste And Scheduled Tribe (Prevention Of Atrocities) Act, 1989 — Section 3(2)(v), 3(v)(va), 3(1)(b), 14(A)(2)
Code Of Criminal Procedure, 1973 — Section 437(3), 439
Indian Penal Code, 1860 — Section 366A, 368, 376, 376(2)(n)
Protection Of Children From Sexual Offence Act, 2012 — Section 3, 4, 5L, 6

Citation : (2019) 09 MP CK 0083

Hon'ble Judges : S.K. Awasthi, J

Bench : Single Bench

Advocate : Mohammad Imran Khan, Gaurav Kumar Verma

Final Decision : Disposed Of

Judgement

The appellant has preferred this appeal (third) under Section 14 (A) (2) of the Scheduled Caste & Scheduled Tribe (Prevention of Atrocities) Act, 1989 (as amended by Act of 2015) read with Section 439 of the Code of Criminal Procedure, 1973, feeling aggrieved by order dated 05.10.2018 passed by learned Special Judge (under SC / ST Act), West Nimar, Mandleshwar (MP) in Special ST / Bail Application No.95/2018, whereby the prayer for grant of regular bail has been declined.

Appellant has been arrested on 15.08.2018 in connection with crime No.192/2018 registered at Police Station Chainpur, District Khargone (MP) in connection with offence punishable under Sections 366-A, 368, 376 and 376 (2) (n) of the Indian Penal Code, 1860, under Sections 3 (2) (v), 3 (v) (v-a) and 3 (1) (b) of the Scheduled Caste & Scheduled Tribe (Prevention of Atrocities) Act, 1989 and also under Section 3 read with Section 4 and Section 5-L read with Section 6 of the Protection of Children from Sexual Offence Act, 2012.

As per prosecution case, allegations against the appellant is that he abducted and committed rape upon a minor girl on the pretext of marriage. Hence, the present case has been registered against him.

Learned counsel for the appellant has submitted that the appellant is a youth aged about 28 years and he has falsely been implicated in the present crime. It is further submitted that the appellant is physically handicapped, there is amputation of his right leg and 80% disability. It is further submitted that the incident alleged to have taken place on 12.08.2018 and the FIR has been lodged on 15.08.2018 after a delay of three months; and no plausible explanation has been offered by the prosecutrix regarding the delay in lodging the FIR. The appellant is in custody since 15.08.2018. The investigation is over and charge sheet has been filed. Earlier bail application (Criminal Appeal No.8034/2018) of the appellant was dismissed as withdrawn by order dated 13.11.2018 with liberty to renew his prayer after recording the Court statement of the prosecutrix. The prosecutrix has been examined before the trial Court on 17.09.2019. Conclusion of the trial will take sufficiently long time. Under these circumstance, learned counsel for the appellant prays for grant of bail to the appellant.

Learned Public Prosecutor for the respondent / State of Madhya Pradesh submits that no sufficient ground is made out for releasing the appellant on bail; hence the appeal filed by the appellant be dismissed.

Considering the facts and circumstance of the case and the arguments advanced by learned counsel for the parties, but without expressing any opinion on the merits of the case, I am of the view that the criminal appeal filed by the appellant may be accepted. Consequently, setting aside the impugned order, the appeal is hereby allowed. It is directed that the appellant shall be released on bail upon execution of personal bond in the sum of Rs.50,000 (Rupees fifty thousand only) with a solvent surety in the like amount to the satisfaction of the learned trial Court for his / her regular presence during trial and shall also abide by the conditions enumerated under Section 437 (3) of Cr.P.C.

This order shall be effective till the end of the trial, however, in case of bail jump, it shall become ineffective.

Accordingly, Criminal Appeal No.7677/2019 stands disposed of.

C. c. as per rules.