

(2021) 08 MP CK 0120

In the Madhya Pradesh High Court

Case No : Criminal Appeal No. 4814 Of 2021

Noshad Kha S/O Daud Khan And Others

APPELLANT

Vs

State Of Madhya Pradesh

RESPONDENT

Date of Decision : 18-08-2021

Acts Referred:

Scheduled Caste And Scheduled Tribe (Prevention Of Atrocities) Act, 1989 — Section 3(2)(v), 3(1)(r), 3(1)(s), 14(A)(2)
Code Of Criminal Procedure, 1973 — Section 437(3), 439
Indian Penal Code, 1860 — Section 147, 148, 149, 294, 302, 307, 323, 506

Citation : (2021) 08 MP CK 0120

Hon'ble Judges : Subodh Abhyankar, J

Bench : Single Bench

Advocate : Rakesh Singh Bhadoria, Shashwat Seth, D.S. Panwar

Final Decision : Allowed

Judgement

Subodh Abhyankar, J

The appellant has preferred this repeat (second) criminal appeal 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

22.06.2020 (Annexure A/2) passed by learned Special Judge (under SC / ST Act), Dewas (MP) in Special ST / Bail Application No.70/2019, whereby

the prayer for grant of regular bail has been declined.

Appellant has been arrested on 30.05.2019 in connection with Crime No.172/2019 registered at Police Station Pipalrawan, Dewas District Dewas

(MP) for offence punishable under Sections 147, 148, 323, 307, 294, 506, 302 and 149 of the Indian Penal Code, 1860 and also under Sections 3 (2) (v)

and 3 (1) (r) and (s) of the Scheduled Caste & Scheduled Tribe (Prevention of Atrocities) Act, 1989.

As per the prosecution story, one Dharmendra was done to death by the appellant and other co-accused persons.

Counsel for the appellant has submitted that his earlier appeal Criminal Appeal No.3992/2020 having already dismissed by this Court on 28.07.2020

(Annexure A/1) on merits.

Counsel has submitted that co-accused Sikander Mansuri's appeal has already been allowed by this Court in Criminal Appeal No.2803/2021 vide order

dated 10.05.2021 (Annexure A/5); and the case of the present appellant is akin to him.

Counsel has further submitted that twenty witnesses have already been examined before the trial Court and none of them has specifically attributed

any injury caused by the appellant to the deceased.

Counsel has also submitted that the appellant is in jail since 30.05.2019 and the final conclusion of the trial is likely to take sufficiently long time. Thus,

it is submitted that the appellant be released on bail.

Learned counsel for the respondent / State, on the other hand, has opposed the prayer.

On due consideration of the rival submissions and perusal of the case diary and also considering the bail order passed by this Court in Criminal Appeal

No.2803/2021 in respect of co-accused Sikander Mansuri, this Court finds force with the contention raised by the counsel for the appellant. In view of

the same, I am of the view that the appeal filed by the appellant may be accepted.

Consequently, by setting aside the impugned order of the trial Court, the appeal is hereby allowed, without commenting anything on the merits of the

matter. It is directed that the appellant shall be released on bail upon executing 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 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.

It is made clear that after being released on bail, if the appellant again indulges himself / herself in any criminal activity, the present bail order shall

stand cancelled without further reference to the Court and the police shall be

entitled to arrest the appellant in the present case also.

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

Certified copy as per rules.