

**(2022) 05 RAJ CK 0067**

**In the Rajasthan High Court**

**Case No : S.B. Criminal Appeal No. 281 Of 2022**

Om Prakash Tada

APPELLANT

Vs

Union Of India And Others

RESPONDENT

**Date of Decision : 16-05-2022**

**Acts Referred:**

Scheduled Caste And Scheduled Tribe (Prevention Of Atrocities) Act, 1989 — Section 3(1)(5)(10), 32(5), 14A  
Indian Penal Code, 1860 — Section 147, 148, 149, 302, 307, 323, 324, 325, 326, 341, 354, 436  
Code Of Criminal Procedure, 1973 — Section 161

**Citation : (2022) 05 RAJ CK 0067**

**Hon'ble Judges : Vijay Bishnoi, J**

**Bench : Single Bench**

**Advocate : J.S. Choudhary, Sampati Choudhary, Dr. Sachin Acharya, Rahul Rajpurohit, Vishal Sharma, Dinesh Vishnoi**

**Final Decision : Allowed**

## Judgement

Vijay Bishnoi, J

This criminal appeal under Section 14A of the Scheduled

Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 (hereinafter to be referred as 'the SC/ST Act') has been filed on behalf of the appellant being aggrieved with the order dated 14.03.2022 passed by the Special Judge, Schedule Castes and Schedule Tribes (Prevention of Atrocities) Cases, Merta (hereinafter to be referred as 'trial court') in Criminal Misc. (Bail) Case No.46/2022, whereby the trial court has dismissed the bail application filed on behalf of the appellant.

The appellant has been arrested in FIR/CR No.168/2015 of Police Station Merta City, District Nagaur (CBI FIR No.RC-3(S)/2015, SCU.V, SC-II, New Delhi, Police Station CBI, SCU.V, SC-II, District New Delhi) for the offences punishable under Sections 302, 307, 341, 436, 323, 324, 325, 326, 354, 147, 148 and 149 IPC

and Sections 3(1)(5)(10) and 2(5) of SC/ST Act.

Learned counsel for the appellant has submitted that the appellant has falsely been implicated in this case. It is argued that as per the prosecution story, as many as ten persons from the complainant's side were present at the time of incident and some of them had also received injuries. It is submitted that the prosecution witnesses viz. Arjun Ram, Khema Ram, Sonki, Jashoda, Shobha Devi, Shrawan Ram, Bhanwari and Bidami have not named the appellee. It is also submitted that the above named witnesses have been examined by the trial court as PW-1, PW-4, PW-5 PW-6, PW-7, PW-8, PW-9 and PW-10 and from the perusal of their statements, it is clear that all of them have not named the appellant.

Learned counsel for the appellant has further submitted that PW-2 viz. Kishna Ram, in his police statements recorded on 14.05.2015 and the statements recorded under Section 161 Cr.P.C. by the CBI on 12.06.2015, though has named the appellant but has not alleged any specific overact by the appellant. Learned counsel for the appellant has also submitted that in the further statements recorded by the CBI on 11.08.2016 and 07.06.2015, Kishna Ram has not named the appellant but again in his statements recorded on 28.3.2016 has named the appellant but has not specified any act by the appellant. It is also submitted that Kishna Ram, in his court statements, though named the appellant but he has not assigned any specific role to the appellant. It is, therefore, submitted that from the evidence of the so called eye witnesses, it cannot be concluded that the appellant took active participation in the commission of crime.

Learned counsel for the appellant has argued that the statements of the eye witnesses have been recorded before the trial court and it cannot be said that the appellant can put pressure on them to tamper with their evidence.

Learned counsel for the appellant has also submitted that the appellant is in custody since 18.01.2018 and there is no likelihood that the trial against him will be concluded in near future. It is further submitted that the co-accused persons viz. Ramdeen, Arjun Ram, Pappu @ Pappi@ Papido Khada, Baldev Ram and Chutra Ram have already been enlarged on bail and the case of the appellant is not distinguishable from that of co-accused.

Per contra, learned Special Public Prosecutor appearing on behalf of respondent No.1 and learned counsel for the respondent No.2 have opposed the prayer made on behalf of the appellant in this criminal appeal and submitted that as a matter of fact, the incident took place in a large agricultural field wherein more than 100 people had attacked the complainant party and assaulted them at different places, in which, five persons have been brutally murdered. It is submitted that as a deceased and the injured persons were assaulted at different places in a large agricultural field, it would not be possible for the prosecution witnesses to give graphic details while specifically assigning role of the accused persons.

Heard learned counsel for the parties and also perused the material on record.

Having regard to the totality of the facts and circumstances of the case, without expressing any opinion on the merits of the case, I deem it just and proper to allow the appeal filed by the accused appellant under Section 14-A(2) of SC/ST Act.

Accordingly, this criminal appeal filed under Section 14-A(2) of SC/ST Act is allowed and the order dated 14.03.2022 passed by the Special Judge, Schedule Castes and Schedule Tribes (Prevention of Atrocities) Cases, Merta in Criminal Misc. (Bail) Case No.46/2022 is set aside. It is directed that appellant - Om Prakash Tada S/o Shivkaran Tada shall be released on bail in connection with FIR/ CR No.168/2015 of Police Station Merta City, District Nagaur (CBI FIR No.RC-3(S)/2015, SCU.V, SC-II, New Delhi, Police Station CBI, SCU.V, SC-II, District New Delhi) provided he executes a personal bond in a sum of Rs.50,000/- with two sound and solvent sureties of Rs.25,000/- each to the satisfaction of learned trial court for his appearance before that court on each and every date of hearing and whenever called upon to do so till the completion of the trial.