
(2019) 09 JH CK 0071

In the Jharkhand High Court

Case No : Criminal Appeal (S.J.) No. 631 Of 2019

Prakash Thakur

APPELLANT

Vs

State Of Jharkhand And Ors

RESPONDENT

Date of Decision : 25-09-2019

Acts Referred:

Indian Penal Code, 1860 — Section 34, 307, 323, 341, 379, 506
Scheduled Castes And Scheduled Tribes (Prevention Of Atrocities) Act, 1989 — Section 3, 4

Citation : (2019) 09 JH CK 0071

Hon'ble Judges : Anubha Rawat Choudhary, J

Bench : Single Bench

Advocate : Vishal Kumar Trivedi, Birendra Burman, Tejo Mistry

Judgement

1. Heard counsel for the parties.

2. This appeal has been filed against the order dated 06.04.2019 passed in M.C.A. No. 457 of 2019, arising out of Complaint Case No. 43 of 2017, whereby the bail application of the appellant has been rejected by learned Special Judge, SC/ST Act, Giridih.

3. The complaint case was filed under Sections 341, 323, 307, 379, 506, 34 of the Indian Penal Code read with Section 3/4 of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989. Counsel for the appellant submits that as is apparent from the impugned order itself, cognizance has been taken under Sections 341, 323, 379, 506, 34 of the Indian Penal Code and Section 3/4 of the Scheduled Caste and Scheduled Tribe (Prevention of Atrocities) Act. Counsel for the appellant submits that the learned court below has failed to take note of the fact that neither in the petition it has been stated that the occurrence took place in a place within public view nor there is any averment that the appellant is not a member of Scheduled Castes or Scheduled Tribes. He further submits that so far as allegations under the Sections are concerned, Sections 341,323,506,34 of the Indian Penal Code are bailable,

Section 379 as well as provisions of Scheduled Caste and Scheduled Tribe (Prevention of Atrocities) Act are non bailable. Counsel further submits that in view of the facts and circumstances of this case, no case under the provisions of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act is made out against the appellant. Counsel further submits that this court in Cr. Appeal (S.J.) No. 506 of 2018 has been pleased to enlarge the co-accused namely Shankar Prasad Sharma @ Shankar Prasad and Shyam Nandan Tiwari @ Shyam Nandan Tiwari on anticipatory bail vide order dated 26.06.2018 by imposing certain conditions and the appellant is also ready to abide by same conditions if this court is pleased to enlarge the appellant on bail. He further submits that another co-accused namely Sikandar Saw has been enlarged on anticipatory bail vide order dated 28.02.2019 in Cr. Appeal (S.J.) No. 1028 of 2018 as contained in Annexure-3 to this memo of appeal.

4. Counsel for the State as well as counsel for the respondent no. 2 have opposed the prayer made by the appellants but at the same time they do not dispute the fact that aforesaid co-accused have been enlarged on anticipatory bail by co-ordinate Bench of this court. They further submit that if this court is inclined to confirm the provisional bail granted to the appellant, then some condition may be put as has been done by this court in Cr. Appeal (S.J.) No. 506 of 2018 and the learned court below may be directed to expedite the trial.

5. After hearing counsel for the parties and after considering the facts and circumstances of this case, particularly the fact that other co-accused have also been enlarged on anticipatory bail, this court is inclined to confirm the provisional bail granted to the appellant. Accordingly, impugned order dated 06.04.2019 passed by learned Special Judge, SC/ST Act, Giridih in M.C.A. No. 457 of 2019 is hereby set aside and provisional bail granted vide order dated 17.07.2019 is hereby confirmed with following conditions:

(i) The appellant shall deposit a demand draft of Rs. 7500/- drawn in favour of the complainant/respondent no. 2 Manoj Kumar Das within a period of 15 days from today.

(ii) The appellants will not disturb or annoy the complainant in any manner at the place of occurrence or at their residence during pendency of this case.

6. In case, the demand draft is deposited, the learned court below is directed to issue notice to the complainant and hand over the demand draft to the complainant on proper identification. Further, in case the demand draft is not deposited provisional bail granted to the appellant shall stand immediately cancelled and the learned court below shall proceed in accordance with law.

7. The learned court below is directed to expedite the trial of the appellant.

8. Let this order be communicated to the court concerned through FAX.