

(2017) 05 RAJ CK 0008
In the Rajasthan High Court
Case No : 384 of 2017

Prema Ram @ Premasukh S/o Shri Ramjiram

APPELLANT

Vs

Union of India

RESPONDENT

Date of Decision : 02-05-2017

Acts Referred:

[Indian Penal Code, 1860](#), [Section 302](#),
[Section 34](#), [Section 147](#), [Section 324](#), [Section 307](#), [Section 323](#)

Citation : (2017) 05 RAJ CK 0008

Hon'ble Judges : Sandeep Mehta

Bench : SINGLE BENCH

Advocate : J.S.Choudhary, Amardeep Lamba, HSS Kharlia, Dinesh Lol, ?Farzand Ali, Dr.Sachin Acharya, Vishal Sharma

Final Decision : Dismissed

Judgement

1. These three appeals have been preferred on behalf of the appellants under Section 14A(2) of the SC/ST (Prevention of Atrocities) Amendment Act 2015 being aggrieved of rejection of their bail applications by the learned Special Judge, SC/ST (Prevention of Atrocity) Cases, Merta (vide order dated 27.02.2017 in Cr.Misc. Case No.106/2017 qua accused Prema Ram), (order dated 25.11.2016 in Cr.Misc. Case No.255/2016 qua accused Pancha Ram) and (order dated 17.04.2017 in Cr.Misc. Case No.182/2017 qua accused Ravindra), who are in custody in connection with FIR No.168/2015, registered at Police Station

Merta City, District Nagaur for the offences under Section 34, 324, 325, 326, 354, 436, 147, 148, 149, 302, 307 and 323 IPC and Sections 3(1) (v)(x) and 3(2)(v) of the SC/ST (Prevention of Atrocities) Act.

2. The prosecution pertains to an incident dated 14.05.2015 which occurred at the village Dangawas, District Nagaur in which, 5 persons were killed and 11 persons were injured in a case of mass violence.

3. Sarva Shri J.S. Choudhary and Shri HSS Kharlia, learned Sr. Counsel assisted by their associates Shri Amardeep Lamba and Shri Dinesh Lol respectively, and Shri Farzand Ali, counsel representing the respective appellants vehemently urged that the land in question was in cultivatory possession of the accused party since decades. The complainant party, took illegal possession thereof a few days before the incident. A panchayat was held in the village and the complainants were advised not to interfere in the cultivatory possession of the accused party but they did not desist from their offending act on the fateful day. A panchayat of all the community members was convened to for available settlement of the land dispute between the parties. The members of the complainant party sent Rampal Puri and Ramdeo Khadav to call Ratna Ram to the village to join the panchayat for resolving the dispute. However, when Rampal Puri and Ramdeo Khadav entered the disputed field, the accused persons, who were lying in wait, launched an assault and started firing gunshot at them without any provocation. Rampal Puri died on spot whereas Ramdeo Khadav received gunshot injuries. On hearing the gunshots, the villagers rushed to the scene of occurrence and in the unintentional melee which followed, five members of the complainant party died and some were injured. Some persons

from the accused side also received injuries. They urged that looking to the manner in which the incident happened and the genesis of the occurrence, it becomes essential for the prosecution to assign specific role to each of the accused for fixing responsibility in the incident because Section 149 IPC would have no applicability looking to the peculiar facts of the case.

4. Shri Kharlia, in addition to the above submissions, contended that the appellant Ravindra has been falsely implicated in this case. He is a government servant and was not present at the scene of occurrence on the day of incident. His attendance certificate was referred to and it was urged that the name of appellant Ravindra is not mentioned in the Parcha Bayan of Arjun Ram at Government Hospital, Merta City on the basis whereof, the FIR was lodged. He further contended that even in the belated statements of some witnesses, one son of Dharu Ram Jajra is implicated as an assailant but, merely because of that, the appellant's participation in the incident would not be established because Dharu Ram Jajra has two sons and this cannot be stated with any certainty that the appellant was present during the assault in the case at hand. He further submitted that the appellant Ravindra Kumar's name was introduced in the third round of investigation without any justification and in order to wreak vengeance and thus, he deserves indulgence of bail.

5. Per contra, Dr. Sachin Acharya, learned Special Public Prosecutor representing the CBI and Shri Vishal Sharma representing the complainant, vehemently opposed the submissions advanced by the learned counsel representing the appellants" and craved rejection of these bail appeals. They submitted that it is a case of gruesome pre-planned attack on the members of a weaker section of society which culminated into

death of five innocent persons and grave life threatening injuries to eleven persons from the complainant side including ladies. The accused persons formed an unlawful assembly and indiscriminately assaulted the members of complainant party who were admittedly in possession of the field in question from some time before the incident. The accused party was bent upon to dispossess the complainant party from the agricultural field which stood in their name in the revenue record. With this purpose in mind, they pursued their common intention of eliminating the complainant party who belongs to Scheduled Caste and mercilessly assaulted all the persons present in the field including ladies. The brutality of the assault was so immense that everyone who came in the way was pursued and attacked. Five persons died on spot whereas, 11 persons, including ladies, received grave injuries by vehicular collision, blunt and sharp weapons, etc. Bodies of the deceased were mutilated beyond recognition by frequent running over by tractors, etc. They urged that the manner in which the incident occurred, clearly attracts application of Section 149 IPC against all those who were present at the scene of occurrence irrespective of the role assigned to them. So far as the appellant Ravindra Kumar is concerned, they urged that his presence at the scene of occurrence is specifically mentioned in the statement of witness Kishna Ram recorded by the CBI. Not only this, the appellant Ravindra was implicated in the first statement dated 18.05.2015 of the witness Khema Ram recorded just after the incident as son of Dharu Ram Jajra. They thus urged that the appellants do not deserve to be released on bail.

6. I have given my thoughtful consideration to the submissions advanced by the learned counsel for the parties and have gone through the material available on the record.

7. The case at hand is clearly one of extremely grave and brutal violence. The complainant party was apparently peeved by their failure to re-possess the agricultural field which admittedly stands in the name of the accused party in the revenue record. They decided to take law into their own hands for settling the scores and for this end, all the assailants formed a mob of about 300 people, armed themselves tooth and nail and launched an indiscriminate all out assault on members of the complainant party. The attack was so severe that women as well as old persons from the complainant side were attacked and beaten mercilessly. Five people died in the incident whereas 11 persons received serious injuries.

8. In this background, it would be totally impossible to believe and expect that the complainant Arjun Ram or any other witness would be in any position to give out graphic details of the incident by naming each accused and assigning specific role to them. The site of inspection prepared by the I.O. shows that numerous members of the complainant party were beaten at different locations in a huge agricultural field and thus apparently, no single persons would have been able to witness what was happening with his/her other family members at the other end because prime object of the concerned person, at that time, would have been to save his own skin. In this backdrop, failure to mention the name of some accused persons in the FIR or in attributing specific role is inconsequential. The appellants Prema Ram and Pancha Ram are named in the FIR. The arguments advanced by Shri Kharlia that Dharu Ram Jajra has two sons and thus, the appellant Ravindra alone cannot be singled out as the assailant cannot be appreciated and accepted at this stage because he has been specifically named as an assailant in the statements of the witnesses recorded by

CBI. Thus, at this stage, I am not inclined to enlarge any of the appellants on bail.

9. Consequently, these appeals are dismissed as being devoid of merit. Needless to say that the appellants shall be at liberty to renew the prayer for bail in changed circumstances.