

(2022) 12 MP CK 0099

In the Madhya Pradesh High Court

Case No : Criminal Appeal No. 11924 Of 2022

Rakesh @ Chavanni Yadav

APPELLANT

Vs

State Of Madhya Pradesh And Others

RESPONDENT

Date of Decision : 16-12-2022

Acts Referred:

Scheduled Caste And Scheduled Tribe (Prevention Of Atrocities) Act, 1989 — Section 3(2)(v), 14A
Code Of Criminal Procedure, 1973 — Section 439
Indian Penal Code, 1860 — Section 302, 376(D)

Citation : (2022) 12 MP CK 0099

Hon'ble Judges : Anand Pathak, J

Bench : Single Bench

Advocate : Avadhesh Parashar, Kuldeep Singh

Final Decision : Allowed

Judgement

Anand Pathak, J

Appellant has filed this first criminal appeal under Section 14-A (2) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act 1989 against the order dated 02.11.2022 passed by the Special Judge (Atrocities), Datia (Madhya Pradesh) whereby bail application under Section 439 of Cr.P.C. filed on behalf of appellant has been dismissed by the trial Court.

Appellant has been arrested on 16.05.2020 by Police Station Kotwali, District Datia in connection with Crime No.232/2020 registered in relation to offence punishable under Sections 302, 376 (D) of IPC and Section 3 (2) (v) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989.

It is the submission of learned counsel for appellant that false case has been registered against the appellant and he is facing confinement since 16.05.2020 and material prosecution witnesses including the alleged eye witness (Gangaram alias Gangu Kushwaha PW-12) have been examined, therefore, chance of

tampering with evidence/witness is remote. Recently, DNA report has been received and it appears that DNA does not indicate commission of any such incident as alleged prima facie. Looking to the period of custody and the fact that co-accused has been enlarged on bail vide order dated 23rd November, 2022 in Cr.A.No.10638/2022, his case be considered for bail. Even otherwise, appellant learnt the lesson hard way and now would mend his ways to become a better citizen. He undertakes to cooperate in trial and not to be a source of harassment or embarrassment to the complainant party in any manner and that he will not move in their vicinity. On these grounds prayer for bail is made out.

Learned Public Prosecutor for the respondent No.1/State opposed the prayer and prayed for rejection of appeal. However, he fairly submits that DNA report has been received recently but sample was not sufficient enough for preparation of DNA report. He further undertakes that appellant does not bear any criminal record.

Heard.

Considering the submissions and fact situation and looking to the period of custody, without commenting on the merits of case while setting aside order dated 02.11.2022 passed by trial Court, appeal is allowed and it is directed that appellant be released on bail on his furnishing personal bond of Rs. 50,000/- (Rupees Fifty Thousand only) with one solvent surety of like amount to the satisfaction of Trial Court.

This order will remain operative subject to compliance of the following conditions by the appellant:-

1. The appellant will comply with all the terms and conditions of the bond executed by him;
2. The appellant will cooperate in the investigation/ trial, as the case may be;
3. The appellant will not indulge himself in extending inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the Court or to the Police Officer, as the case may be.
4. The appellant shall not commit an offence similar to the offence of which he is accused;
5. The appellant will not leave India without previous permission of the trial Court/Investigating Officer, as the case may be;
6. The appellant will not be a source of embarrassment or harassment to the complainant party in any manner and would not move in their vicinity and shall not involve in any criminal activity in future and if any case is registered against him then benefit of bail given today shall be withdrawn immediately and appellant will not seek unnecessary adjournments during the trial.

Appeal stands allowed and disposed of.

Copy of this order be sent to the trial Court concerned for compliance.

Certified copy as per rules.