

(2023) 05 MP CK 0076

In the Madhya Pradesh High Court

Case No : Criminal Appeal No.6811 Of 2015

Rohit Malviya And Others

APPELLANT

Vs

State Of Madhya Pradesh And Others

RESPONDENT

Date of Decision : 18-05-2023

Acts Referred:

Scheduled Caste And Scheduled Tribe (Prevention Of Atrocities) Act, 1989 — Section 3(2)(va), 14A(1)
Code Of Criminal Procedure, 1973 — Section 439, 446
Indian Penal Code, 1860 — Section 34, 294, 307, 323, 506

Citation : (2023) 05 MP CK 0076

Hon'ble Judges : Dinesh Kumar Paliwal, J

Bench : Single Bench

Advocate : Manoj Kushwaha, N.S. Solanki

Final Decision : Disposed Of

Judgement

Dinesh Kumar Paliwal, J

This criminal appeal has been filed under Section 14-A(1) of the SC/ST (Prevention of Atrocities) Act, 1989 against the order dated 13.04.2023 passed by Special Judge SC/ST (Prevention of Atrocities) Act, Narmadapuram, in B.A. No.150/2023, whereby learned Special Judge has dismissed the bail application under Section 439 of Cr.P.C. of appellants.

Appellants have been arrested in connection with Crime No.38/2023 registered at Police Station Dolariya, District Hoshangabad (Narmadapuram) (M.P.) for the offences punishable under Sections 294, 323, 307, 506/34 of IPC and Section 3(2)(va) of SC/ST (Prevention of Atrocities) Act. Appellants are in jail since 11.03.2023.

As per the prosecution story, on 10.03.2023 at around 02:50 p.m., Shivram Ashware informed police that today at 01:30 p.m. he was at his home. His uncle is his neighbour. Hearing the noise of commotion when he came out of home, he

found that Omprakash Malviya and Ramshankar Malviya along with his two relatives calling Amar Ashware by his caste name. They were telling as to why he has forwarded his wife's mobile number to the other boys of the village. When Amar asked that he had not given his wife's mobile number to anyone. Omprakash Malviya and Ramshankar Malviya and his relatives abused him by uttering filthy words and Omprakash by means of sharp edged Baka gave three blows on his head, Ramshankar gave one blows from the Axe. When Mangilal Ashware, Pooja Ashware and Priya Ashware came there to rescue, then one of the relative of Omprakash beat them by means of stick. FIR registered. After investigation, charge-sheet has been filed.

Learned counsel for the appellants has submitted that appellants have not committed any injury. They are relative. They have been falsely implicated. They have not caused any grievous or life threatening injury to Amar Ashware.

It was Omprakash and Ramshankar who had caused grievous/life threatening injury to the Amar Ashware. They are not named in the FIR. After investigation, charge-sheet has been filed, therefore, it has been prayed that appellants/accused be released on bail.

On the other hand, learned counsel for the State has opposed the appeal for grant of bail to the appellants/accused.

Main allegations are against Omprakash Malviya and Ramshankar Malviya. Having taken into consideration the totality of allegations against the present appellants, but without expressing any opinion on the merits of the case, I am of the view that appellants may be released on bail. Consequently, appeal under Section 14-A (1) of the SC/ST (Prevention of Atrocities) Act, 1989 is allowed.

It is directed that the appellants - Rohit Malviya and Rahul shall be released on bail on their furnishing a personal bond in the sum of Rs.50,000/- (Rupees Fifty Thousand Only) each with one surety each in the like amount to the satisfaction of the concerned trial Court for their appearance before the concerned Court on all such dates as may be fixed in this behalf by the trial Court during the pendency of trial.

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

1. The appellants will comply with all the terms and conditions of the bond executed by him;
2. The appellants will cooperate in the trial;
- 3 . The appellants will not indulge themselves in extending inducement, threat or promise to any person acquainted with the fact of the case so as to

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dissuade them from disclosing such facts to the Court or to the Police Officer, as

the case may be;

4. The appellants shall not commit an offence similar to the offence of which they are accused;

5. The appellants will not seek unnecessary adjournments during the trial;

and

6. The learned trial Court shall be at liberty to proceed under Section 446 of Cr.P.C. for levy of penalty from appellants and his sureties.

In case of bail jump and violation of any conditions this bail order shall become ineffective.

Accordingly, appeal is disposed of. C.C. as per rules.