

(2023) 06 MP CK 0031

In the Madhya Pradesh High Court

Case No : Criminal Appeal No.3470 Of 2016

Rumal Singh Kataria And Others

APPELLANT

Vs

State Of Madhya Pradesh

RESPONDENT

Date of Decision : 15-06-2023

Acts Referred:

Code Of Criminal Procedure, 1973 — Section 389(1)
Indian Penal Code, 1860 — Section 147, 149, 302

Citation : (2023) 06 MP CK 0031

Hon'ble Judges : Rohit Arya, J; Satyendra Kumar Singh, J

Bench : Division Bench

Advocate : Deependra Raghuvanshi, Kuldeep Singh

Final Decision : Allowed/Disposed Of

Judgement

Heard o n I.A. No.7656/2023, which is first application under Section 389(1) of Cr.P.C. moved on behalf of appellant No.1-Rumal Singh Kataria.

Appellant No . 1 stands convicted under Section 302/149 IPC and sentenced to undergo life imprisonment with fine of Rs.500/- and under Section 147 IPC and sentenced to undergo one month's RI with fine of Rs.100/- with default stipulations vide judgment of conviction and order of sentence dated 07.04.2021 passed by the Second Additional Sessions Judge, Mungaoli, District Ashoknagar (Madhya Pradesh) in Sessions Trial No.181/2012.

A s per prosecution story, over a trivial issue of grazing of cattle, a dispute arose between the complainant party and accused persons. However, after heated exchange between the parties, Mohar Singh rushed to his house and came back with Naval armed with lathi. Babbu, Sanjeev, Rumal (present appellant), Bharat Singh, Bhura, Gulab Singh and Panjab Singh also came on the spot followed by Kamtabai and Anitabai. Babbu, Rumal and Bharat alleged to have slapped the deceased and Naval assaulted the deceased-Rakesh with lathi hitting on his waist. Thereafter, Mohar Singh was found to have caused forehead injury with

lathi resulting into his death. On the aforesaid allegations, FIR was lodged. After completion of investigation, charge sheet was filed and the case was committed to the Sessions Court. The Sessions Court upon critical evaluation of the evidence placed on record has convicted and sentenced the appellant as referred above.

Learned counsel for appellants while taking exception to the impugned judgment of conviction and order of sentence submits that appellant No.1-Rumal Singh is innocent and has falsely been implicated. The Sessions Court did not appreciate the relevant piece of evidence. The judgment is based on surmises and conjectures. No specific overt act is alleged against appellant No.1-Rumal Singh. Moreso, co-accused Gulab Kataria, Babulal @ Babbu and Bharat Singh Kataria against whom there was an allegation of slapping the deceased have since been extended the benefit of suspension of sentence and grant of bail vide orders dated 06/02/2023, 21.01.2022 and 06.01.2023 passed in connected Criminal Appeal No.2993/2021; hence, prays for suspension of sentence and grant of bail.

Per contra, learned counsel for the respondent-State opposes the application with submission that no fault can be found with the conviction ordered by the Sessions Court under Section 302 read with 149 of IPC as all the accused persons with common object had assaulted the deceased resulting into homicidal death. Thus, no exception can be taken in the matter of grant of suspension of jail sentence to appellant No.1-Rumal Singh.

Upon hearing learned counsel for the parties, though this Court refrains from commenting upon rival contentions so advanced touching merits of the case, regard being had to the fact that no specific overt act has been attributed to appellant No.1-Rumal Singh and co-accused Gulab Kataria, Babulal @ Babbu and Bharat Singh Kataria in connected Criminal Appeal No.2993/2021 against whom there was an allegation of slapping the deceased have since been extended the benefit of suspension of sentence and grant of bail vide orders dated 06/02/2023, 21.01.2022 and 06.01.2023, we see no reason as to why the benefit of bail should not be given to appellant No.1-Rumal Singh. Accordingly, we allow the application and it is directed that the jail sentence of appellant No.1-Rumal Singh shall remain suspended during pendency of present appeal and he be released on bail on his furnishing a personal bond in the sum of Rs.2,00,000/- (Rupees Two Lacs only) with one solvent surety in the like amount to the satisfaction of the trial Court subject to verification of factum regarding deposit of fine amount. Appellant No.1-Rumal Singh is directed to appear before the Registry of this Court first on 3/8/2023 and on other subsequent dates as may be fixed in this behalf with following further conditions:-

(i) the concerned jail authorities are directed that before releasing the appellant, the medical examination of appellant No.1-Rumal Singh be conducted through the jail doctor and if it is prima facie found that he is having any symptoms of COVID-19, then the consequential follow up action or any further test required be undertaken immediately. If not, appellant No.1-Rumal Singh shall be released

on bail in terms of the conditions imposed in this order ;

(ii) violation of conditions, State is free to apply for cancellation of bail.

Accordingly, I.A. No.7656/2023 stands allowed and disposed of.

Observations on facts, if any, are only for the purpose of deciding the instant I.A. and shall have no bearing on the merits of the appeal.

Certified copy as per rules.