

(2023) 12 MP CK 0079

In the Madhya Pradesh High Court

Case No : Criminal Appeal No. 15434 Of 2023

Sanjay Sharma

APPELLANT

Vs

State Of Madhya Pradesh And Others

RESPONDENT

Date of Decision : 18-12-2023

Acts Referred:

Scheduled Caste And Scheduled Tribe (Prevention Of Atrocities) Act, 1989 — Section 3(1)(r), 3(1)(s), 3(2)(va), 14A(2)
Code Of Criminal Procedure, 1973 — Section 439
Indian Penal Code, 1860 — Section 294, 309, 323, 324, 326, 506

Citation : (2023) 12 MP CK 0079

Hon'ble Judges : Sanjeev S Kalgaonkar, J

Bench : Single Bench

Advocate : Prakhar Dhengula, Pramod Pachauri

Final Decision : Allowed

Judgement

Sanjeev S Kalgaonkar, J

The appellant has filed this first Criminal Appeal under Section 14-(A) 2) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 being aggrieved by order dated 02-12-2023 passed by Special Judge [Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act 1989] (hereinafter would be referred as to the "Act of 1989"), Guna whereby bail application under Section 439 of Cr.P.C. of appellant has been rejected.

The appellant has been arrested on 26-11-2023 relating to FIR at Crime No.905 of 2023 registered at Police Station Kotwali, Guna, District Guna (M.P) for offences punishable Sections 294, 323, 324, 506 of IPC and Sections 3(1) (r), 3(1)(s), 3(2)(va) of the Act of 1989 and added Section 326 of IPC.

As per the case of prosecution, Amar Lal Kori reported to PS Kotwali, Guna on 20-10-2023 that on 19-10-2023 around 11:30 in the night, he was guarding his vegetable shop at Purani Gala Mandi. Accused appellant Santosh Sharma was

consuming liquor. He objected to consumption of liquor at Gala Mandi. Accused started abusing him in filthy language with referring to his caste. He objected to abuses. Accused assaulted him with knife. He sustained injury on his head and right hand. Accused threatened to kill him and fled away. On such allegations, PS Kotwali, District Guna registered FIR at Crime No.905 of 2023 for the offences punishable under Sections 294, 323, 324, 506 of IPC and Sections 3(1)(r), 3(1)(s), 3(2)(va) of the Act of 1989. On X-ray examination, fracture on right thumb of complainant was found, therefore, offence under Section 326 of IPC was added. Appellant was arrested on 26-11-2023. One knife was recovered at his instance. On completion of investigation, Final Report has been submitted on 12-12-2023.

Learned counsel for the appellant, in addition to the grounds mentioned in the appeal, submits that minor scuffle over the objection to consumption of liquor was aggravated. Both the parties have assaulted each other due to which the complainant sustained minor injury, which was found to be fracture of right thumb. No criminal antecedent is reported against the appellant. Appellant is a vegetable vender and is the sole bread earner of his family. There is no likelihood of his absconsion leaving behind his family, home and profession. No offence punishable under provisions of the Act of 1989 is made out against the appellant. There is no likelihood of his tampering with the evidence as both the parties belong to same socio-economic status. No further custodial interrogation of appellant is required in the matter. Trial would take time to conclude. Therefore, appellant may be extended the benefit of bail.

P er contra, learned counsel for the State opposes the appeal on the ground of gravity of alleged offence and prays for its rejection.

Heard learned learned counsel for the parties and perused the case diary. Considering the arguments advanced by both the parties and overall circumstances of the case but without expressing any opinion on merits of the case, while setting aside order dated 02-12-2023 passed by Trial Court, this Court is inclined to release the appellant on bail. Thus, the appeal is allowed.

Accordingly, it is directed that appellant- Sanjay Sharma shall be released on bail in relation to Crime No.905 of 2023 registered at Police Station Kotwali, Guna, District Guna (M.P) for offences punishable Sections 294, 323, 324, 506 of IPC and Sections 3(1)(r), 3(1)(s), 3(2)(va) of the Act of 1989 and added Section 326 of IPC, upon furnishing a personal bond in the sum of Rs. 50,000/- (Rupees Fifty Thousand Only) with one solvent surety of the same amount to the satisfaction of the Trial Court, for compliance with the following conditions, :

1. The appellant shall remain present on every date of hearing as may be directed by the concerned Court;
2. The appellant shall not commit or get involved in any offence of similar nature;
3. The appellant shall not directly or indirectly make any inducement, threat or

promise to any person acquainted with the facts of the case so as to dissuade them/him/her from disclosing such facts to the Court or to the investigating officer;

4. The appellant shall not directly or indirectly attempt to tamper with the evidence or allure, pressurize or threaten the witness;

5. The appellant shall ensure due compliance of provisions of Section 309 of Cr.P.C regarding examination of witness in attendance;

This order shall be effective till the end of trial. However, in case of breach of any of the pre-condition of bail, it shall become ineffective without reference to the Court.

CC as per rules.