
(2018) 05 MP CK 0081
In the Madhya Pradesh High Court
Case No : Cr.A. No.2734 OF 2018

Smt. Sunita Tomar

APPELLANT

Vs

State Of Madhya pradesh & Ors

RESPONDENT

Date of Decision : 11-05-2018

Acts Referred:

Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 — Section 3(1)(r) , 3(1)(s), 3(2)(va), 14A
Indian Penal Code, 1860 — Section 294, 323, 498A, 506

Citation : (2018) 05 MP CK 0081

Hon'ble Judges : C. V. SIRPURKAR, J

Bench : Single Bench

Advocate : R.S.Mehndiratta, Narendra Chourasia

Final Decision : Disposed Of

Judgement

Heard on this appeal for anticipatory bail under Section 14-A of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 filed

on behalf of appellant Smt. Sunita Tomar in crime no. 6/2017, registered by P.S.-A.J.K., District-Hoshangabad (M.P.), under Sections 498-A, 294,

323 and 506 of the IPC and Section 3 (1) (r), 3(1) (s), 3 (2) (va) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989.

This criminal appeal is directed against the order dated 28.03.2018 passed by the Court of Special Judge SC/ST (Prevention of Atrocities) Act,

Hoshangabad, in the bail application no.231/2018.

As per the prosecution case, appellant Smt. Sunita Tomar's son Saurabh Singh Tomar had married the victim on 22.11.2016. It was an inter-caste

love marriage. The appellant's son and victim had physical relations even prior to the marriage. In due course of time, Saurabh Singh Tomar

obtained a job in Police Department by way of compassionate appointment. Thereafter, his behaviour towards the victim changed; however, on the

complaint of the victim, a compromise was reached and Saurabh Singh Tomar married the victim; however, he never socially accepted her and never

took her to his home. He also beat up the victim frequently. As a result, she had to be admitted in Nav Jivan Hospital. Consequently, she lodged the

report under Section 498-A of the IPC on 01.04.2017. On aforesaid report, crime number 215/2017 was registered by P.S. Bagh Sevaniya, District-

Bhopal. In that matter, Saurabh Singh Tomar, was granted anticipatory bail by order dated 12.05.2017 passed by this Court in M.Cr.C.No.7389/2017.

The victim again lodged a report on 07.04.2017 in P.S. Ajak, District-Hoshangabad; wherein, she again leveled allegations of cruelty against Saurabh

Singh Tomar. She also leveled allegations against present appellant Smt. Sunita Tomar to the effect that on 21.03.2017, when the victim had gone to

the house of Saurabh Singh Tomar, appellant Sunita Tomar addressed her in a derogatory manner with reference to her Scheduled Caste and told her

that she would never allow her son Saurabh Singh Tomar to keep victim as his wife; as she belongs to a lower caste. She abused the victim and

expelled her from the house. She also wanted the victim to take divorce from Saurabh Singh Tomar; otherwise, she threatened that she would get her

beaten by the police. In aforesaid manner, she was humiliated and expelled from the house.

Learned counsel for the appellant has invited attention of the Court to the judgment of the Supreme Court in the case of Dr. Subhash Kashinath

Mahajan vs. State of Maharashtra (Cr.A.No.416/2018 dated 20th March, 2018); wherein, it has been held that the remedy of anticipatory bail is not

absolutely barred in the cases for the offences punishable under Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989.

Anticipatory bail can be granted in cases where there is no prima facie case against the appellant under the Act or if allegations leveled against the

appellant are malafide.

Learned counsel for the appellant submits that the incident involving the present appellant is said to have taken place on 21.03.2017. After that first

information report was lodged on 01.04.2017, yet there was no mention of any incident involving the present appellant Sunita Tomar; therefore, it is

clear that the allegations are an after-thought and are mala fide in nature. The allegations have been leveled subsequently in order to implicate Saurabh

Singh Tomar's mother in the case; therefore, it has been prayed that the appellant be granted the benefit of anticipatory bail.

Learned Deputy Government Advocate for the respondent/State and learned counsel for the objector on the other hand have opposed the application

mainly on the ground that the age of the present appellant has been erroneously mentioned as 68 years; whereas, she is only 49 years old. It has also

been submitted that there are direct allegations against the appellant; therefore, it has been prayed that the appeal be dismissed.

Â However, keeping in view facts and circumstances of the case in their entirety, particularly the facts as pointed out by learned counsel for the

appellant, in the opinion of this Court, it would be appropriate to dispose of the appeal in terms of the directions as contained in the case of Dr.

Subhash Kashinath Mahajan (supra), which read as follows:

â??Accordingly, we direct that in absence of any other independent offence calling for arrest, in respect of offence under the Atrocities Act, no

arrest may be effected, if an accused person is a public servant, without written permission of the appointing authority and if such a person is not a

public servant, without written permission of the Senior Superintendent of Police of the District. Such permissions must be granted for recorded

reasons which must be served on the person to be arrested and to the concerned court. As and when a person arrested is produced before the

Magistrate, the Magistrate must apply his mind to the reasons recorded and further detention should be allowed only if the reasons recorded are found

to be valid. To avoid false implication, before FIR is registered, preliminary enquiry may be made whether the case falls in the parameters of the

Atrocities Act and is not frivolous or motivated.

Consequently, the appeal stands disposed of.