

(2021) 05 RAJ CK 0019
In the Rajasthan High Court
Case No : Criminal Appeal No. 426 Of 2021

Sohel Khan

APPELLANT

Vs

State Of Rajasthan And Anr

RESPONDENT

Date of Decision : 04-05-2021

Acts Referred:

Scheduled Caste and Scheduled Tribe (Prevention of Atrocities) Act, 1989 — Section 3(1)(S)(F), 14A(2)
Indian Penal Code, 1860 — Section 406, 420
Code Of Criminal Procedure, 1973 — Section 439

Citation : (2021) 05 RAJ CK 0019

Hon'ble Judges : Devendra Kachhawaha, J

Bench : Single Bench

Advocate : M.K Pareek, Mukthiyar Khan

Final Decision : Allowed

Judgement

The instant appeal has been filed under Section 14-A(2) of the Scheduled Caste/ Scheduled Tribe (Prevention of Atrocities) Act on behalf of the

appellant, who is in judicial custody in connection with F.I.R. No. 694/2020, Police Station Hanumangarh Town, District Hanumangarh, registered for

the offences punishable under Sections 406 and 420 of the Indian Penal Code and Sections 3 (1) (S) (F) of the SC/ST (Prevention of Atrocities) Act

against the order dated 22.04.2021 passed by the learned Special Judge, SC/ST (Prevention of Atrocities) Act Cases, Hanumangarh, whereby, the bail

application preferred under Section 439 Cr.P.C. on behalf of the appellant was rejected.

Heard learned counsel for the appellant and learned counsel for the complainant through video conferencing as well as learned Public Prosecutor

present-in-person. Perused the material available on record.

Learned counsel appearing for the appellant through video conferencing stated that agreement to sale was executed by the complainant in favor of

appellant; since loan was taken from the bank, property was placed with bank, therefore, registration could not take place. He further stated that as

per agreement, installments of bank loan was to be paid by the appellant but due to pandemic, some of the installments could not be paid by the

appellant, therefore, F.I.R was lodged and appellant was falsely implicated for the offence punishable under Section 420 and 406. With these

submissions, learned counsel for the appellant prayed that benefit of bail may be granted to the accused-appellant.

Per contra, learned Public Prosecutor and learned counsel for the respondent No.2 opposed the bail application and stated that installments were not

paid by the accused- appellant and he has also not vacated the possession of the plot, therefore, benefit of bail shall not be granted.

Having given a thoughtful consideration to the submissions advanced on behalf of the parties, it is an admitted position that agreement took place

between the appellant and complainant; possession was handed over in pursuance of the agreement of sale, but simply because some of the

installments were not paid by the appellant, present F.I.R was lodged by the complainant against the appellant, therefore, without expressing any

opinion on the merits of the case, at this stage, this Court is of the opinion that the present appeal deserves to be allowed and the appellant deserves to

be enlarged on bail.

Consequently, the appeal is allowed. The impugned order dated 22.04.2021 passed by the learned Special Judge, SC/ST (Prevention of Atrocities) Act

Cases, Hanumangarh is set aside; and it is ordered that the accused-appellant Soheli Khan S/o Salim Khan, arrested in connection with F.I.R. No.

694/2020, Police Station Hanumangarh Town, District Hanumangarh, shall be released on bail, if not wanted in other case, provided he furnishes a

personal bond of Rs.50,000/- and two sureties of Rs.25,000/- each to the satisfaction of the learned Trial Court with the stipulation to appear before

that Court on each and every date of hearing and whenever called upon to do so till the completion of the trial.