

(2023) 12 RAJ CK 0074

In the Rajasthan High Court

Case No : Criminal Appeal (SB) No. 2256 Of 2023

Sonu @ Nandu @ Pawan

APPELLANT

Vs

State Of Rajasthan And Others

RESPONDENT

Date of Decision : 19-12-2023

Acts Referred:

Scheduled Caste And Scheduled Tribe (Prevention Of Atrocities) Act, 1989 — Section 3(2)(v), 14A(1)
Indian Penal Code, 1860 — Section 120B, 279, 302, 364

Citation : (2023) 12 RAJ CK 0074

Hon'ble Judges : Dinesh Mehta, J

Bench : Single Bench

Advocate : Pradeep Kumar Shah, M.S. Bhati

Final Decision : Allowed

Judgement

Dinesh Mehtaa, J

1. This appeal has been filed under Section 14-A(1) of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 by the appellant in connection with FIR No.114/2021, registered at Police Station Abu Road City, District Sirohi for the offences under sections 302, 279, 364 & 120B of the Indian Penal Code, 1860 and Section 3(2) (v) SC/ST (Prevention of Atrocities) Act, 1989.

2. Mr. Pradeep Shah, learned counsel for the appellant submitted that going by the story of the prosecution no specific role has been assigned to the applicant and simply on the basis of recovery of stone (allegedly used as a weapon of offence) the appellant has been held to be involved in the commission of murder.

3. He submitted that the earlier appeal being S.B. Criminal Appeal No.688/2022 was dismissed as withdrawn vide order dated 03.08.2022, passed by the Coordinate Bench of this Court with a liberty to file afresh, once the statement of Deputy Superintendent of Police (Dinesh Kumar) is recorded.

4. Learned counsel submitted that after withdrawal of the earlier appeal on

03.08.2022, said Dinesh Kumar has not appeared in the witness box on any of previous 20 dates of hearing (since 15.10.2022).

5. Mr. Shah argued that it is on account of the prosecution's conduct, the appellant is suffering prolonged incarceration due to which appellant's right of speedy trial is being infringed.

6. It was also submitted that the co-accused persons namely Mukesh Singh and Mohd. Siraj have been enlarged on bail by the Coordinate Bench of this Court vide order dated 19.10.2022, passed in S.B. Criminal Appeal No.1553/2022 and S.B. Criminal Appeal No.1554/2022. Co-accused Rakesh Singh and Shanti Lal have been enlarged on bail vide order dated 14.09.2022, passed in S.B. Criminal Appeal Nos.536/2022 and 537/2022 respectively. Co-accused Vijay Agarwal has been enlarged on bail vide order dated 24.11.2021, passed in S.B. Criminal Appeal No.984/2021. Learned counsel therefore prayed that the present appellant be also granted benefit of bail.

7. Learned Public Prosecutor vehemently opposed the appellant's prayer.

8. Having regard to the facts and circumstances of the case and considering the co-accused Shantilal, Vijay Agrawal, Mukesh Singh, Mohd. Siraj & Rakesh Singh all have been enlarged on bail and that for last 20 hearings, the Investigating Officer (Dinesh Kumar) has not turned to lead his evidence, this Court is of the view that appellant's right of speedy trial has been infringed.

9. That apart, the stone that has been recovered, has not been sent for FSL.

10. In view of the overall facts and circumstances of the case, this Court deems it just and proper to allow the present appeal of the appellant.

11. Consequently, the appeal is allowed. The impugned order dated 14.08.2023, passed by learned Special Judge, Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act Cases, Sirohi is set aside. It is ordered that the accused – appellant - Sonu @ Nandu @ Pawan S/o Sh. Mithu Lal, arrested in connection with FIR No.114/2021, registered at Police Station Abu Road City, District Sirohi shall be released on bail on his furnishing personal bond in the sum of Rs.50,000/- and two sureties of Rs.25,000/-each to the satisfaction of the trial Court.

12. Appellant shall be required to appear before that Court on all dates of hearing and as and when called upon to do so.

13. Needless to mention that the above observations made by this Court are on the basis of material so far produced before the Court. These are only prima-facie observations and the same shall however, not come in the way of the trial Court to take independent view of the matter, based on ocular and oral evidence, while finally deciding the case.