

(2024) 02 RAJ CK 0052

In the Rajasthan High Court

Case No : Criminal Appeal (SB) No. 818, 2475 Of 2023

Sunil Khatri And Others

APPELLANT

Vs

State Of Rajasthan And Others

RESPONDENT

Date of Decision : 14-02-2024

Acts Referred:

Scheduled Caste And Scheduled Tribe (Prevention Of Atrocities) Act, 1989 — Section 3(2)(V), 14A(2)
Indian Penal Code, 1860 — Section 148, 149, 302, 307, 323, 447
Code Of Criminal Procedure, 1973 — Section 439

Citation : (2024) 02 RAJ CK 0052

Hon'ble Judges : Vinit Kumar Mathur, J

Bench : Single Bench

Advocate : Navneet Poonia, Baltej Singh Sandhu, Laxman Solanki

Final Decision : Allowed

Judgement

Vinit Kumar Mathur, J

S.B. Criminal Appeal (Sb) No. 818/2023:

1. In pursuance of the order passed by this Court on 21.12.2023, the notices have been served upon the respondent No.2-complainant. However, despite service, nobody has appeared on behalf of respondent No.2. The report filed by learned Public Prosecutor with respect to the service of notice upon respondent No.2 is taken on record.

2. The instant appeal has been filed under Section 14A(2) SC/ST (Prevention of Atrocities) Act on behalf of the appellant, who is in custody in connection with FIR No.545/2018 lodged at Police Station Pilibanga, District Hanumangarh for the offences under Sections 302, 148, 149, 447, 323 & 307 of I.P.C. and Section 3(2) (V) of the SC/ST (Prevention of Atrocities) Act against the order dated 08.05.2023 passed by the Special Judge, SC/ST (Prevention of Atrocities) Cases, Hanumangarh, whereby, the bail application preferred under Section 439 Cr.P.C.

on behalf of the appellant was rejected.

3. Heard. Perused the material available on record.

4. It is submitted by learned counsel for the appellant that after rejection of the earlier appeal of the appellant on 16.03.2021, co-accused Jagdish has been enlarged on bail by this Court vide order dated 14.12.2023. Learned counsel further submits that the case of the present appellant is not distinguishable from the case of the co-accused person who has already been released on bail. He, therefore, prays that the appellant may also be enlarged on bail.

5. The learned Public Prosecutor opposes the appeal but he is unable to distinguish the case of the present appellant vis-a-vis the case of the co-accused person who has been enlarged on bail.

6. Having regard to the peculiar facts and circumstances of the case and considering the fact that case of the present appellant is identical to the co-accused aforesaid who has been enlarged on bail, this Court deems it just and proper to release the appellant on bail.

7. Consequently, the instant appeal is allowed. The impugned order dated 08.05.2023 passed by the Special Judge, SC/ST (Prevention of Atrocities) Cases, Hanumangarh is set aside. It is ordered that the accused-appellant Sunil Khatri @ Silu S/o Subhash Chandra arrested in connection with FIR No.545/2018 lodged at Police Station Pilibanga, District Hanumangarh shall be released on bail; provided he furnishes a personal bond of Rs. 50,000/- (Rupees: Fifty Thousand Only) and two sureties of Rs. 25,000/-(Rupees: Twenty Five Thousand Only) each to the satisfaction of the learned trial Court with the stipulation to appear before that Court on all dates of hearing and as and when called upon to do so.

S.B. Criminal Appeal (Sb) No. 2475/2023:

1. In pursuance of the order passed by this Court on 21.12.2023, the notices have been served upon the respondent No.2-complainant. However, despite service, nobody has appeared on behalf of respondent No.2. The report filed by learned Public Prosecutor with respect to the service of notice upon respondent No.2 is taken on record.

2. The instant second appeal has been filed under Section 14A(2) SC/ST (Prevention of Atrocities) Act on behalf of the appellant, who is in custody in connection with FIR No.545/2018 lodged at Police Station Pilibanga, District Hanumangarh for the offences under Sections 148, 302 in alternate 302/149, 447, 323, in alternate 323/149 & 307 in alternate 307/149 of I.P.C. and Section 3(2)(V) of the SC/ST (Prevention of Atrocities) Act against the order dated 02.11.2023 passed by the Special Judge, SC/ST (Prevention of Atrocities) Cases, Hanumangarh, whereby, the bail application preferred under Section 439 Cr.P.C. on behalf of the appellant was rejected.

3. Heard. Perused the material available on record.

4. It is submitted by learned counsel for the appellant that after rejection of the earlier appeal of the appellant on 16.03.2021, co-accused Mukesh S/o Sitaram has been enlarged on bail by a co-ordinate Bench of this Court vide order dated 19.10.2023. Learned counsel further submits that the case of the present appellant is not distinguishable from the case of the co-accused person who has already been released on bail. He, therefore, prays that the appellant may also be enlarged on bail.

5. The learned Public Prosecutor opposes the appeal but he is unable to distinguish the case of the present appellant vis-a-vis the case of the co-accused person who has been enlarged on bail.

6. Having regard to the peculiar facts and circumstances of the case and considering the fact that case of the present appellant is identical to the co-accused aforesaid who has been enlarged on bail, this Court deems it just and proper to release the appellant on bail.

7. Consequently, the instant appeal is allowed. The impugned order dated 02.11.2023 passed by the Special Judge, SC/ST (Prevention of Atrocities) Cases, Hanumangarh is set aside. It is ordered that the accused-appellant Vijay Singh S/o Hariram arrested in connection with FIR No.545/2018 lodged at Police Station Pilibanga, District Hanumangarh shall be released on bail; provided he furnishes a personal bond of Rs. 50,000/- (Rupees: Fifty Thousand Only) and two sureties of Rs. 25,000/-(Rupees: Twenty Five Thousand Only) each to the satisfaction of the learned trial Court with the stipulation to appear before that Court on all dates of hearing and as and when called upon to do so.