

(2023) 07 RAJ CK 0044
In the Rajasthan High Court
Case No : Criminal Appeal No. 192 Of 2023

Tara Ram @ Taru Ram

APPELLANT

Vs

State Of Rajasthan And Others

RESPONDENT

Date of Decision : 13-07-2023

Acts Referred:

Scheduled Caste And Scheduled Tribe (Prevention Of Atrocities) Act, 1989 — Section 3(2)(v), 3(2)(va), 14A
Indian Penal Code, 1860 — Section 147, 149, 342
Code Of Criminal Procedure, 1973 — Section 161, 439
Evidence Act, 1872 — Section 65B

Citation : (2023) 07 RAJ CK 0044

Hon'ble Judges : Kuldeep Mathur, J

Bench : Single Bench

Advocate : J.S. Choudhary, Sampati Choudhary, Vikram Sharma, Ajay Vyas

Final Decision : Allowed

Judgement

Kuldeep Mathur, J

The instant appeal has been filed under Section 14A of the SC/ST (Prevention of Atrocities) Act on behalf of the appellant seeking bail in F.I.R. No.107/2021 registered at Police Station Deshnok, Bikaner for the offences punishable under Sections 302, 342, 147, 149 of IPC and Sections 3(2)(v) and 3(2)(va) of the SC/ST (Prevention of Atrocities) Act against the order dated 30.01.2023 passed by the Special Judge, SC/ST (Prevention of Atrocities) Cases and Additional District and Sessions Court, Bikaner, whereby, the 2nd bail application preferred under Section 439 Cr.P.C. on behalf of the appellant was rejected.

Heard learned counsel for the appellant, the learned Public Prosecutor and learned counsel for the complainant. Perused the material available on record.

Learned counsel for the appellant submitted that neither the name of the appellant does not find mention in the FIR nor the presence of the appellant has been established at the place of incident. Learned counsel further submitted that

the deceased in his statement just before his death, did not mention the name of the present appellant. Learned counsel submitted that the appellant has been implicated in the present case solely on the basis of the statements of one Mustak Khan recorded under Section 161 Cr.P.C. on 19.10.2021 after more than one month from the date of incident.

Learned counsel further submitted that co-accused-Vijay Kumar S/o Shri Mangta Ram was also named by the Mustak Khan in his statements recorded under Section 161 Cr.P.C. on 19.10.2021 for the first time and he has already been enlarged on bail by this Court vide order dated 18.01.2023. Learned counsel thus prayed that the appellant is in custody since long; challan has already been filed and the trial is likely to take time before reaching its conclusion, therefore, the appellant may be enlarged on bail.

Learned Public Prosecutor and learned counsel for the complainant vehemently opposed the prayer of the appellant. Learned counsel for the complainant submitted that the presence of the appellant is established at the place of incident through the tower location.

However, in rebuttal, learned counsel for the appellant submitted that in the absence of certificate filed under Section 65-B of the Evidence Act, the mobile location is of no consequence and would not have any adverse implication.

Considering the submissions made by learned counsel for the appellant as well as the facts and circumstances of the case, but without expressing any opinion on the merits/demerits of the case, this Court is of opinion that the appellant deserves to be enlarged on bail.

Accordingly, the criminal appeal filed under Section 14-A of the SC/ST Act is allowed and order dated 30.01.2023 passed by the Special Judge, SC/ST (Prevention of Atrocities) Cases and Additional District and Sessions Court, Bikaner in Criminal Case No.203/2023 is set aside. It is directed that appellant-Tara Ram @ Taru Ram S/o Sh. Bhaira Ram shall be released on bail in connection with FIR No.107/2021 of Police Station, Deshnok, District Bikaner provided he executes a personal bond in a sum of Rs. 50,000/- with two sound and solvent sureties of Rs. 25,000/- each to the satisfaction of learned trial court for his appearance before that court on each and every date of hearing and whenever called upon to do so till the completion of the trial.