
(2021) 04 MP CK 0004
In the Madhya Pradesh High Court
Case No : Criminal Appeal No.2251 Of 20201

Thakurdas Jatav

APPELLANT

Vs

State Of Madhya Pradesh And Others

RESPONDENT

Date of Decision : 01-04-2021

Acts Referred:

Scheduled Castes And Scheduled Tribes (Prevention Of Atrocities) Act, 1989 — Section 3(2)(v), 14A(2)
Code Of Criminal Procedure, 1973 — Section 161, 439
Indian Penal Code, 1860 — Section 34, 147, 149, 201, 302

Citation : (2021) 04 MP CK 0004

Hon'ble Judges : Vishal Mishra, J

Bench : Single Bench

Advocate : Ravi Rahul, Nitin Goyal

Final Decision : Allowed

Judgement

Vishal Mishra, J

Present appeal has been filed under Section 14-A(2) of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 (hereinafter would be referred as "the Act") against the order dated 15.1.2021 passed by Special Judge (Atrocities Act) Datia whereby the application of the appellant under Section 439 of Cr.P.C seeking bail has been rejected.

Appellant is in custody since 31.12.2020 in connection with Crime No. 301 of 2020 registered at Police Station Badauni district Datia, for the offence punishable under Sections 302, 34, 147, 149 and 201 of IPC and 3 (2) (v) of the SC ST Act.

It is submitted by counsel for the appellant that the appellant has been falsely implicated in the case and he has not committed any offence in any manner. He further submits that the appellant was not present at the place of incident and his name is also not reflected in the FIR and subsequently when the statement

under Section 161 of Cr.P.C was recorded, name of present appellant was roped in the present case by the wife of deceased stating that she had gathered some information that the appellant was also present at the place of incident. However, when question was put to her as to how she gathered the information and from whom she had gathered the information pertaining to presence of appellant at the place of incident, she had specifically stated that there is nothing on record to show the source of information. However, she fairly submitted that the name of appellant is not mentioned in the FIR. Investigation is over in the matter and the charge sheet has already been filed, therefore, there is no requirement of further custodial interrogation of the appellant. The appellant is a first offender having no criminal history. He is ready to abide with all the conditions which may be imposed by this court while considering this appeal. On these grounds, he prayed for grant of bail to the appellant.

Per contra, learned counsel appearing for the State has opposed the appeal stating that the appellant has actively participated in the commission of offence and prayed for rejection of this appeal. When a specific question was put to the State counsel that how the complainant got the information of appellant's involvement in the offence and from whom she got the information, State counsel has fairly stated that there is nothing on record regarding the aforesaid.

Considering the over all facts and circumstances of the case and the facts that the investigation is complete in the matter and the charge sheet has already been filed on 19.3.2021 and also the fact that the appellant is first offender having no criminal history, this court deems it appropriate to allow this appeal. The appellant is directed to be released on bail subject to verification of the fact that the appellant is having no criminal history and on furnishing surety bond of Rs.50,000/- (Rs. Fifty thousand Only) with one solvent surety in the like amount to the satisfaction of trial Court.

The appellant shall submit written undertaking that he will abide by all terms and conditions of the different circulars, orders as well as guidelines issued by the Central Government, State Government as well as Local Administration for maintaining social distancing, hygiene etc to avoid Novel Corona Virus (COVID -19) pandemic and he will have to install Arogya Setu App, if not already installed.

This order will remain operative subject to compliance of the following conditions by the appellant :-

1. The appellant will comply with all the terms and conditions of the bond executed by him;
2. The appellant will cooperate in the investigation/trial, as the case may be;
3. The appellant will not indulge himself in extending inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade her from disclosing such facts to the Court or to the Police Officer, as the case

may be;

4. The appellant shall not involve any other offence, in case the applicant indulges in any other criminal case the benefit of bail as extended by this Court shall automatically cancelled.

5. The appellant will not seek unnecessary adjournments during the trial;

6. The appellant will not leave India without previous permission of the trial Court/Investigating Officer, as the case may be.

7. If the appellant is found involved in any other case except what has been stated above, this bail shall stand rejected without reference to the court;

8. The appellant will inform the concerned S.H.O. of concerned Police Station about his residential address in the said area and it would be the duty of the Public Prosecutor to send E-copy of this order to SHO of concerned police station as well as Superintendent of Police concerned who shall inform the concerned SHO regarding the same.

Appeal stands allowed and stands disposed of.

The appellant shall install Arogya Setu App in his mobile immediately and would intimate their place of residence to the SHO of concerned Police Station; where they reside. Appellant shall further submit the undertaking to the effect that he will abide by the terms and conditions of different circulars, orders as well as guidelines issued by Central Government, State Government as well as Local Administration for maintaining social distancing, hygiene etc to avoid Novel Corona Virus (COVID-19) pandemic.

In view of the COVID-19, jail authorities are directed that before releasing the appellant medical examination of applicant shall be undertaken by the jail doctor and on prima facie, if it is found that he is having the symptoms of COVID-19, then consequential follow up action including the isolation/quarantine or any test if required, be ensured, otherwise appellant shall be released immediately on bail and shall be given a pass or permit for movement to reach his place of residence.

E-copy of this order be provided to the applicant and E-copy of this order be sent to the trial Court concerned for compliance. It is made clear that E-copy of this order shall be treated as certified copy for practical purposes in respect of this order.

CC as per rules.