

(2023) 03 MP CK 0143
In the Madhya Pradesh High Court
Case No : Criminal Appeal No. 540 Of 2023

Vipin Balu

APPELLANT

Vs

State Of Madhya Pradesh And Others

RESPONDENT

Date of Decision : 31-03-2023

Acts Referred:

Scheduled Caste And Scheduled Tribe (Prevention Of Atrocities) Act, 1989 — Section 3(va), 3(1)(da)(dha), 3(2)(v), 14(A), 14(A)(2)
Code Of Criminal Procedure, 1973 — Section 439
Indian Penal Code, 1860 — Section 147, 148., 149, 294, 302, 341, 365

Citation : (2023) 03 MP CK 0143

Hon'ble Judges : Deepak Kumar Agarwal, J

Bench : Single Bench

Advocate : Deependra Singh Raghuvanshi, B.M. Shrivastava, Rohit Shrivastava

Final Decision : Allowed/Disposed Of

Judgement

Deepak Kumar Agarwal, J

This is fourth criminal appeal filed by the appellant under Section-14(A) (2) of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 (in brief "the Act") after earlier appeal was dismissed as withdrawn and last appeal was dismissed with liberty to renew the prayer after examination of material witnesses vide order dated 24.06.2022 passed in Cr.A. No.4453/2022 by the Coordinate Bench of this Court.

The appellant has filed this appeal under Section 14(A)(2) of the SC/ST Act against the order dated 30.09.2021 passed by Special Judge Scheduled Caste and Scheduled Tribes (Prevention of Atrocities) Act, District Ashoknagar (M.P.) whereby, application of appellant preferred under Section 439 of Cr.P.C. has been rejected.

Appellant is apprehending his arrest in connection with Crime No.453/2021 registered at Police Station Kotwali, District Ashoknagar in relation to the

offences punishable under Sections 302, 341, 294, 147, 148, 149, 365 of IPC and Sections 3(2)(v), 3(1)(da)(dha) and 3(v,a) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act.

Prosecution case, in short, is that complainant Govinda lodged a named FIR on 26.06.2021 at 5.30 pm at Police Station Kotwali, Ashoknagar against the accused and co-accused persons alleging that when he along with his uncle Ankit were going to Shankarpur, accused persons, namely, Rahul, Shyam, Sonu, Vipin started abusing them. When they objected them, co-accused persons assaulted on Ankit by means of lathi due to which blood started oozing out. Thereafter Shyam Balu did marpeet with lathi and Vipin and Sonu assaulted with lathi on the head of Ankit. Thereafter, Ankit was brought to hospital, Ashoknagar. During treatment, he died. On the basis of report, Crime No.453/2021 registered at Police Station Kotwali, District Ashoknagar in relation to the offences punishable under Sections 302, 341, 294, 147, 148, 149, 365 of IPC and Sections 3(2)(v), 3(1)(da)(dha) and 3(v,a) of the Scheduled Castes and Scheduled Tribes Act was registered against the accused persons. Dead body panchnama was prepared and sent for post-mortem. As per post-mortem report, he died due to haemorrhage and fracture on head injury.

Accused persons were arrested.

Learned counsel for the appellant made submission that deceased Ankit died due to assault of Ajay and Rahul, who assaulted with sword and lohngi on the head of deceased. Allegation against appellant is that he assaulted with lathi on the left hand. The appellant has falsely been implicated in the case. It is further submitted that other offences registered under the IPC are bailable. It is further submitted that appellant is a reputed citizen of the society and if he is sent to jail, then his social reputation would get diminished. Hence, learned counsel prayed to allow this appeal for anticipatory bail.

Learned counsel for the State as well as counsel for the complainant vehemently opposed the application and prayed for its rejection.

Heard learned counsel for the rival parties at length and considered the arguments advanced by them and perused the case diary.

Looking to the facts and circumstances of the case, but without commenting on the merits of the case, the appeal is allowed. It is ordered that in the event of arrest, if appellant furnishes bail bond of Rs.25,000/- (Rupees Twenty Five Thousand only) with one solvent surety in the like amount to the satisfaction of the Arresting Authority/Investigating Officer, he should be released on bail.

Appeal stands allowed and disposed of.

Copy of this order be sent to the trial Court concerned for compliance.

Certified copy as per rules.