

**Gwalior, Dated:-11.12.2019**

Shri S.S. Kushwaha, learned counsel for the appellant.

Shri Vijay Sundaram, learned Public Prosecutor for the respondent/State.

At the outset, learned Public Prosecutor has apprised this Court that respondent no.2/complainant has been informed with regard to pendency of this appeal as required under section 15A of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 (for short "the Act").

Case Diary is perused.

Learned counsel for the rival parties are heard.

This is first criminal appeal under section 14A of SC/ST (Prevention of Atrocities) Act assails the order dated 21.06.2019 passed by First Additional Sessions Judge, Datia, whereby application preferred by the appellant herein under section 439 Cr.P.C. has been rejected.

The appellant has been arrested by Police Station Dursada, District Datia in connection with Crime No. 76/2019 registered in relation to the offences punishable under Sections 307, 458, 294, 323 & 34 of IPC and Sec 3(2)(v) of SC/ST (Prevention of Atrocities) Act.

Allegations against the appellant and other co-accused persons in short are that some altercation took place between younger brother

of the complainant namely Pradyuman Prajapati and appellant. Thereafter, when all the family members were lying at their courtyard, at about 11:00 PM, present appellant along with other co-accused persons, who armed with Axe and lathi came in the house of the complainant and used filthy language relating to caste of the complainant and also stated that Ramsiya did not pay compensation for loss of crops and Pradyuman had beaten his son. Thereafter, the co-accused Badam hit Ramsiya's head by means of Axe, due to which, he sustained injuries. Co-accused Ankush assaulted Pradyuman's head by means of Farsa with intention to kill him. Co-accused Bhaiyalal Pal assaulted Pradyuman's left leg by Axe and the present applicant Pushpendra hit to complainant Ajuddi Bai by means of Lathi. Thereafter, when the complainant's father Ratiram came to save them, then co-accused Ankush hit him by Farsa on his head. The co-accused Bhaiyalal Pal also assaulted him by Axe on his head. The present applicant also assaulted Ratiram on his right leg. On the basis of aforesaid, crime has been registered against the present appellant.

It is submitted by learned counsel for the appellant that appellant has falsely been implicated in the present matter. He is in custody since 18.6.2019. Charge-sheet has been filed. No further custodial interrogation of the appellant may be required. It is submitted that the allegation of the complainant is not corroborated

with the medical evidence. The basic ingredients of Scheduled Caste and Scheduled Tribe (Prevention of Atrocities) Act is not made out in the present case. The injuries received are simple in nature. There was no intention to kill the victim and early conclusion of the trial is a bleak possibility and prolonged pre-trial detention is anathema to the concept of liberty. There is no possibility of his absconsion or tampering with the evidence. In these circumstances, learned counsel for the appellant prays for grant of bail to the appellant.

On the other hand, learned Public Prosecutor opposed the application and prayed for its rejection contending that on the basis of the allegations and the material available on record, no case for grant of bail is made out.

However, it would not be desirable to enter into the rival contentions at this juncture.

Taking into consideration the overall facts and circumstances of the case and the fact that trial is not likely to conclude in near future and prolonged pre-trial detention being an anathema to the concept of liberty, this Court is inclined to extend the benefit of bail to the appellant.

Accordingly, without expressing any opinion on merits of the case, the appeal is allowed and the impugned order is quashed. It is

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directed that the appellant be released on bail on furnishing a personal bond in the sum of **Rs. 50,000/- (Rupees Fifty Thousand only)** with two solvent sureties each in the like amount to the satisfaction of the trial Court/committal Court for his appearance on the dates given by the concerned Court.

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 them;
2. The appellant will cooperate in the investigation/trial, as the case may be;
3. The appellant will not indulge in extending inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him/her from disclosing such facts to the Court or to the Police Officer, as the case may be;
4. The appellant shall not commit an offence similar to the offence of which they are accused;
5. The appellant will not seek unnecessary adjournments during the trial; and
6. The appellant will not leave India without previous permission of the trial Court/Investigating Officer, as the case may be.

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A copy of this order be sent to the Court concerned for compliance.

Certified copy as per rules.

(S.A. Dharmadhikari)  
Judge

Pawar/-