

HIGH COURT OF MADHYA PRADESH,
BENCH AT GWALIOR

Cr.A.No. 4859/2020

(Makhan Singh and another Vs. State of Madhya Pradesh)
(1)

Gwalior, dated : 23/09/2020

Shri Rajmani Bansal, Advocate for the appellants.

Shri Manish Nayak, Panel Lawyer for the respondent
no.1/State.

Shri Vibhor Kumar Sahu, Advocate for the respondent
No.2/complainant.

In pursuance of the directions issued by the Apex Court and guidelines issued by the High Court of Madhya Pradesh in the wake of COVID-19 outbreak , the matter was taken up through video conferencing while adhering to the norms of social distancing prescribed by the Government. Case Diary is perused. Learned counsel for the rival parties are heard.

This appeal has been preferred under section 14A(2) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 (for short “the Act”) against the impugned order dated 04.09.2020 passed by Special Judge (under the Act), Guna, whereby appellants' application under Section 439 of the Code of Criminal Procedure has been rejected by the Court below.

The appellants have been arrested by Police Station Bajranggarh, District Guna in connection with Crime No.181/2020 registered in relation to the offences punishable under Sections 342, 294, 323, 506 and 34 of the IPC and Sections 3(1)(r), 3(1)(s) and 3(2)(va) of the Act.

Allegations against the appellants, in short, are that on

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5/8/2020 some altercation took place between co-accused Jagannath and present appellants Makhan and Rajpal on one side and complainant's husband on the other, in the course of which, they abused complainant's husband in the name of his caste and beat him with Lathi after tying him with a rope. As complainant came forward to his rescue, co-accused Rambhan, Yashbhan and Shivnandan also came there and assaulted her with Lathis. As her son Deepak and Sachin came, they were also beaten by Rajbhan and Yashbhan. On the aforesaid basis, crime has been registered.

Learned counsel for the appellants submits that the appellants have been falsely implicated. They are in custody since 03/09/2020. All the offences, except those under SC/ST Act are bailable in nature. On perusal of FIR, it can be seen that no caste related abuses have been hurled by the present appellants in public view. Therefore, the offences under the SC/ST Act are not attracted to the fact situation in hand. As per medical reports, the injury received are simple in nature. It is further submitted that in view of COVID-19 outbreak, detention of appellants in already congested prisons may be detrimental. Appellants are permanent residents of Guna and there is no likelihood of their absconion or tampering with the prosecution evidence. They are ready to abide by the terms and conditions as may be imposed by this Court. With the aforesaid submissions prayer for grant of bail is made.

On the other hand, learned Panel Lawyer appearing for the

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State as well as counsel for the respondent No.2 opposed the prayer for grant of bail.

At this stage, appellants volunteered to deposit an amount of Rs.2,500/- (Rupees Two Thousand and Five Hundred Only) each in the account of the High Court Bar Association, Gwalior.

Considering the overall facts and circumstances of the case coupled with 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 appellants.

Accordingly, without expressing any opinion on merits of the case, this application is allowed and it is directed that each one of the appellants namely **Makhan Singh and Rajpal** be released on bail on their furnishing a personal bond in the sum of **Rs.50,000/- (Rupees Fifty Thousand only) each** with a solvent surety in the like amount to the satisfaction of the trial Court/committal Court for their appearance on the dates given by the concerned Court. Each one of them shall also furnish a written undertaking that he will abide by the terms and conditions of various circulars, as well as, orders issued by the Central Government, State Government and local administration from time to time such as maintaining social distancing, physical distancing, hygiene etc. to avoid proliferation of Corona virus.

It is made clear that benefit of bail shall be extended to each

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one of the appellants only on their depositing an amount of **Rs.2,500/- (Rupees Two Thousand and Five Hundred Only)** with High Court Bar Association, Gwalior for the purpose of assistance and rehabilitation of those members of the Bar, who are facing financial distress due to Lockdown and restrictive functioning of the Courts owing to ongoing COVID-19 pandemic. Each one of the appellants shall submit an attested copy of its receipt before the concerned Court for keeping the same on record of the case. This Court has no manner of doubt that the office bearers and the Senior members of the Bar shall ensure that the donation reaches the rightful and deserving claimants.

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

1. The appellants shall install **Aarogya Setu App** (if not already installed) in their mobile phones.
2. The appellants will comply with all the terms and conditions of the bond executed by them;
3. The appellants will cooperate in the investigation/trial, as the case may be;
4. The appellants 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;
5. The appellants will not seek unnecessary adjournments during the trial;
6. The appellants will not leave India without previous permission of the trial Court/Investigating Officer, as the case may be.

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7. **If the appellants commits any offence while being on bail, then this order shall automatically stand cancelled without reference to the Court.**

Accordingly the appeal is allowed and the impugned order is hereby set aside.

Learned counsel for the State is directed to send an e-copy of this order to the Station House Officer of the concerned Police Station for information and necessary action.

E- copy of this order be sent to the Court below, if possible, by the office of this Court.

Certified copy/e-copy as per rules/directions.

(S.A.Dharmadhikari)
Judge

SP