

THE HIGH COURT OF MADHYA PRADESH
CRA-5378-2020
(Veerpal Vs. State of Madhya Pradesh)

Gwalior Dt. 20.11.2020

Shri Deepak Shrivastava, learned counsel for the appellant.

Shri Rohan Sharma, learned Panel Lawyer for the respondent/State.

Heard through video conferencing.

Present second repeat appeal filed u/S.14(A)(2) of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, after dismissal of earlier one (Cra.4917.2020) on 23.09.2020 on merits with liberty to come again after suffering some further reasonable period of custody, assails the order dated 15.09.2020 passed by Special Judge (Atrocities), Ashok Nagar (M.P.) whereby the application preferred by the appellant herein u/S.439 of Cr.P.C. came to be rejected.

The appellant is in custody since 13.09.2020 in connection with Crime No.126/2020 registered by Police Station Kadwaya, District Ashok Nagar (M.P.) in relation to the offences punishable u/S. 354, 457, 376 of IPC, u/Ss. 3(1)(W)(i), 3(2) (VA) Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act.

Learned counsel for the State, on the other hand, prayed for dismissal of the appeal by contending that on the basis of the allegations and the material available on record, no case for grant of bail is made out.

New ground raised is that appellant is in custody since last more than two months and the investigation in the matter is over by filing of charge-sheet. Initially the allegation made by the prosecutrix was merely of house trespass and catching hand of prosecutrix whereas later on the prosecutrix embellished her allegation by alleging rape in her statement recorded u/S. 164 CrPC.

Considering the period of custody and nature of allegation and looking to the ongoing Covid-19 pandemic crises and the fact that the material placed on record does

not disclose the possibility of the appellant fleeing from justice and trial is not likely to conclude in the near future and prolonged pre-trial detention being an anathema to the concept of liberty, this Court is though inclined to extend the benefit of bail to the appellant but with certain stringent conditions looking to the seriousness of offence.

Accordingly, without expressing any opinion on merits of the case, present appeal is allowed and the impugned order dated 15.09.2020 passed by Special Judge (Atrocities), Ashok Nagar (M.P.) is quashed by directing that the appellant be released on bail on furnishing a personal bond in the sum of **Rs.25,000/- (Rs. Twenty Five Thousand only) with one solvent surety of the like amount** to the satisfaction of the concerned Magistrate.

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 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 he is accused;
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. The learned concerned Magistrate and the prosecution are directed to ensure following of Covid-19 precautionary protocol prescribed from time to time by the

Supreme Court, the Central Govt. and as well as the State Govt during release, travel and residence of the appellant during period of bail as a consequence of this order.

8. The appellant as a Shiksha Swayamsevak shall render physical and financial assistance to government primary school situated nearest to residence of appellant for ensuring hygiene and sanitation and for removing deficiencies of infrastructural amenities in the said school from the skill/resources of the appellant. *अपीलार्थी एक शिक्षा स्वयंसेवक के रूप में अपने निवास के निकट अवस्थित सरकारी प्राथमिक विद्यालय में स्वच्छता और आरोग्य को सुनिश्चित करने के लिए शारीरिक एवं वित्तीय सहायता प्रदान करेगा तथा अपने कौशल व संसाधनों से उक्त विद्यालय में अवसंरचनात्मक सुविधाओं की कमियों को दूर करेगा।*

The appellant after selecting a particular Govt. Primary School shall inform about the same to the office of Gram Panchayat (in case of rural area) and/or Ward Officer of the concerned ward (in case of urban area), within whose territorial jurisdiction the said school is situated. [*अपीलार्थी एक विशिष्ट प्राथमिक सरकारी स्कूल का चयन करने के पश्चात् इसके बारे में ग्राम पंचायत के कार्यालय (ग्रामीण क्षेत्र के मामले में) और/या सम्बंधित वार्ड के वार्ड अधिकारी (शहरी क्षेत्र के मामले में) जिसके क्षेत्राधिकार में उक्त स्कूल अवस्थित है, को सूचित करेगा।*]

It will be joint responsibility of Sarpanch and Secretary of said Gram Panchayat (in case of rural area) and/or Ward Officer of the concerned ward (in case of urban area) to preserve the said information provided by the appellant and pass it on the concerned PLV. [*यह सम्बंधित वार्ड के वार्ड अधिकारी (शहरी क्षेत्र के मामले में) और/या उक्त ग्राम पंचायत के सरपंच और सचिव (ग्रामीण क्षेत्र के मामले में) की संयुक्त जिम्मेदारी होगी कि, अपीलार्थी द्वारा प्रदत्त सूचना को संरक्षित करे।*]

The Registry of this Court shall communicate this order through Legal Aid Officer, SALSA, Gwalior to the Collector, District Education Officer, Block Education Officer of the district/block concerned for information and compliance.

A copy of this order be supplied to the Legal Aid Officer, SALSA, Gwalior who is directed to communicate this order to the Paralegal Volunteers of the area concerned to verify as to whether appellant has complied with condition No.8 or not and submit report once every month.

In case, report regarding condition No.8 is not filed or report is found to be wanting in any manner then Registry is directed to list this matter as PUD before appropriate Bench.

9. The victim shall be at liberty to apply for cancellation of bail in case petitioner indulges harassment and intimidation to the prosecutrix and prosecutrix would also be entitled to seek protection under the Witness Protection Scheme, 2018, formulated by the Supreme Court in the case of "Mahender Chawla & Ors. Vs. Union of India & Ors. [(2019) 14 SCC 615]"

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

C.c. as per rules.

(Sheel Nagu)
Judge