

**IN THE HIGH COURT OF MADHYA PRADESH
AT GWALIOR**

BEFORE

HON'BLE SHRI JUSTICE SANJEEV S KALGAONKAR

ON THE 10th OF JULY, 2024

CRIMINAL APPEAL No. 7515 of 2024

AKASH VYAS

Versus

THE STATE OF MADHYA PRADESH AND OTHERS

.....
Appearance:

(SHRI NITIN SHARMA- ADVOCATE FOR APPELLANT)

*(SHRI SHUSHANT TIWARI- PUBLIC PROSECUTOR FOR RESPONDENT
NO.1- STATE)*

.....

ORDER

The appellant has filed this **first** criminal appeal under Section 14-A (2) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 being aggrieved by order dated 18-04-2024 passed by Special Judge (Atrocities), Guna (M.P.) rejecting the application for anticipatory bail filed by appellant under Section 438 of Cr.P.C.

Learned Counsel for the State submits that the complainant has been informed about filing of this appeal in compliance with mandate of Section 15-A of the the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989.

The appellant is apprehending his arrest relating to Crime No. 138 of 2024 registered by Police Station Cantt. District Guna (M.P.) for offence punishable under Sections 147, 148, 149, 341, 327, 324, 323, 294, 506 of IPC and under Sections 3(1)(r), 3(1)(s), 3(2)(v-a) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 and enhanced Section 329 of IPC.

As per the case of prosecution, Lakhan Jatav S/o Lalchand Jatav reported to SHO PS Cantt. Distt. Guna that on 12.02.2024, around 7:00 in the evening, he was standing near wine shop at Patel Nagar, Guna. Shubham Maharaj, Pappu Maharaj, Manoj Sharma, Kuldeep Rawat and Manjit Raghuvanshi and his associates came there armed with lathi, farsa and luhangi. They started abusing him in filthy language with reference to his caste and asked money to consume liquor. He refused to pay money. All the accused surrounded him. Shubham assaulted with knife on his head. His brothers Bhagwan Singh, Bharat, Nitesh and Banwari came for his rescue. All the accused assaulted them. Bhagwan Singh, Bharat, Nitesh and Banwari also sustained injuries. All the accused threatened to kill them. On such allegations, PS Cantt. Guna registered FIR at Crime No.138 of 2024 for offence punishable under Sections 323, 294, 327, 341, 506, 147, 148, 149 of IPC and under Sections 3(1)(r), 3(1)(s), 3(2)(v-a) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 against Shubham Maharaj, Pappu Maharaj, Manoj Maharaj, Kuldeep Rawat, Manjit Raghuvanshi and their associates. Injured were forwarded for medico-legal examination. On X-Ray examination, fracture of left ankle of Bharat was found. One wooden stick was recovered at the instance of Anurag Sharma. Prosecution for offence punishable U/s 329 of IPC was added. Statements of witnesses have been recorded. Investigation is underway.

Learned Counsel for the appellant in addition to the grounds mentioned in the appeal, submits that the appellant has falsely been implicated in this matter. Although there is allegation of assaulting the victim by all the accused persons, but the FIR does not mention the name of the appellant or involvement of appellant in the alleged offence. Later, the appellant was implicated after

premeditation and consultation in the statements of witnesses recorded under Section 161 of CrPC. No offence punishable under the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 is made out against the appellant. Learned Counsel contends that the appellant is aged around 28 years and is shopkeeper by profession. He has family to look after. There is no likelihood of his absconsion or tampering with evidence. No criminal antecedent is reported against the appellant. No custodial interrogation is required in the matter. Jail incarceration on false allegation would bring social disrepute and hardship to the appellant. Appellant is ready to cooperate with the investigation. Trial would take time to conclude. Learned Counsel further contends that co-accused Anurag Sharma has been extended the benefit of regular bail by this Court vide order dated 13th of April, 2024 passed in Criminal Appeal No.4062 of 2024 and co-accused Shivam alias Shubham Sharma has been extended benefit of regular bail by Coordinate Bench of this Court vide order dated 12th of June, 2024 passed in Criminal Appeal No.6319 of 2024. Therefore, the impugned order may be set aside and the appellant may be extended the benefit of anticipatory bail.

Per contra, learned counsel for the State opposes the bail application and prays for its rejection on the ground of gravity of offence.

Heard both the parties and perused the case diary.

Considering the arguments advanced by both the parties and overall circumstances of the case, but without commenting on merits of the case, this Court is inclined to grant anticipatory bail to the applicant. Thus, the application is allowed.

Accordingly, it is directed that in the event of arrest of appellant,

appellant- Akash Vyas shall be released on bail in relation to Crime No. 138 of 2024 registered by PS Cantt. District Guna (M.P.) for offence punishable under Sections 147, 148, 149, 341, 327, 324, 323, 294, 506 of IPC and under Sections 3(1)(r), 3(1)(s), 3(2)(v-a) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 and enhanced Section 329 of IPC, upon furnishing a personal bond in the sum of **Rs.50,000/-(Rupees Fifty Thousand Only) with one solvent surety** of the same amount to the satisfaction of the Officer making arrest, for compliance with the following conditions: **(For convenience of understanding by accused and surety, the conditions of bail are also reproduced in Hindi as under):-**

(1) Appellant shall make himself available for investigation as may be directed by the officer, in-charge of investigation;

(1) अन्वेषणकर्ता पुलिस अधिकारी के निर्देशानुसार अन्वेषण हेतु आवेदक उपलब्ध रहेगा।

(2) Appellant shall not commit or get involved in any offence of similar nature;

(2) आवेदक समान प्रकृति का कोई अपराध नहीं करेगा या उसमें सम्मिलित नहीं होगा।

(3) Appellant shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade them/him/her from disclosing such facts to the Court or to the police officer;

(3) आवेदक प्रकरण के तथ्यों से परिचित किसी व्यक्ति को प्रत्यक्ष या अप्रत्यक्ष रूप से प्रलोभन, धमकी या वचन नहीं देगा, जिससे ऐसा व्यक्ति ऐसे तथ्यों को न्यायालय या पुलिस अधिकारी को प्रकट करने से निवारित हो।

(4) Appellant shall not directly or indirectly attempt to tamper with the evidence or allure, pressurize or threaten the witness;

(4) आवेदक प्रत्यक्ष या अप्रत्यक्ष रूप से साक्ष्य के साथ छेड़छाड़ करने का या साक्षी या साक्षियों को बहलाने-फुसलाने, दबाव डालने या धमकाने का प्रयास नहीं करेगा।

(5) Upon submission of final report under Section 173 of Cr.P.C, the appellant shall furnish fresh personal bond and solvent surety of aforementioned amount to the satisfaction of the Trial Court, if so directed and thereafter, shall remain present on every date of hearing as may be directed by the concerned Court;

(5) धारा 173 दं.प्र.सं. के तहत अंतिम प्रतिवेदन प्रस्तुत होने पर, यदि ऐसा निर्देशित किया जाता है, आवेदक विचारण न्यायालय की संतुष्टिपूर्वक पूर्व उल्लेखित राशि का नवीन वैयक्तिक बंधपत्र एवं प्रतिभू बंधपत्र प्रस्तुत करेगा और उसके उपरांत संबंधित न्यायालय के निर्देशानुसार सुनवाई की प्रत्येक तिथि पर उपस्थित रहेगा।

(6) During trial, the appellant shall ensure due compliance of provisions of Section 309 of Cr.P.C. regarding examination of witnesses in attendance;

(6) विचारण के दौरान, उपस्थित गवाहों से परीक्षण के संबंध में आवेदक धारा 309 दं.प्र.सं. के

प्रावधानों का उचित अनुपालन सुनिश्चित करेगा।

This order shall be effective till the end of trial. However, in case of breach of any of the precondition of bail, the Trial Court may consider on merit cancellation of bail without any impediment of this order.

The trial Court shall get these conditions reproduced on the personal bond by the accused and on surety bond by the surety concerned. If any of them is unable to write, the scribe shall certify that he had explained the conditions to the concerned accused or the surety.

C.C. as per rules.

pd



(SANJEEV S KALGAONKAR)
JUDGE