

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

**BEFORE**

**HON'BLE SHRI JUSTICE PRANAY VERMA**

**ON THE 2<sup>nd</sup> OF DECEMBER, 2022**

**CRIMINAL APPEAL No. 10326 of 2022**

**BETWEEN:-**

**KAYYUM @ AKLU S/O HAFIZ KHAN,  
AGED ABOUT 44 YEARS,  
OCCUPATION: LABOURER, R/O:  
VILLAGE SURJANI, PS SITAMAU,  
DISTRICT MANDSAUR (MADHYA  
PRADESH)**

**.....APPELLANT**

***(BY MR. APOORV JOSHI, ADVOCATE)***

**AND**

- 1. THE STATE OF MADHYA  
PRADESH STATION HOUSE  
OFFICER THROUGH POLICE  
STATION SITAMAU, DISTRICT  
MANDSAUR (MADHYA  
PRADESH)**
- 2. SHIVLAL S/O NIRBHAYRAM  
PATIDAR, AGED ABOUT 32  
YEARS, OCCUPATION:  
AGRICULTURIST VILLAGE  
SURJANI, PS SITAMAU,  
DISTRICT MANDSAUR (MADHYA  
PRADESH)**

.....RESPONDENTS

*(BY MS. BHARTI LAKKAD, LEARNED PL WITH  
MR. NAVENDU JOSHI, LEARNED COUNSEL FOR THE COMPLAINANT.)*

*This appeal coming on for hearing this day, the court passed the following:*

**ORDER**

This is first Criminal Appeal filed under Section 14(A)(2) of SC/ST (Prevention of Atrocities) Act, 1989 for grant of bail against the order dated 01.11.2022 passed by the Special Judge (S.C. & S.T. Act), Mandsaur, whereby the learned Judge has rejected the application filed by the appellant under Section 439 of Cr.P.C. to get regular bail in Crime No.571/2022 registered at Police Station- Sitamau, District-Khargone for the offence under Sections 307, 147, 148, 149, 336, 323, 294 and 506 of the IPC and Sections (3)(1)(r), 3(1)(s) and 3 (2)(V-a) of the SC/ST (Prevention of Atrocities) Act, 1989. The appellant is in jail since 04.10.2022.

2. As per the prosecution, on 01.10.2022, the complainant and others were watching Garba near Amba Mata Temple in Gram Surjani. At that time co-accused Salman came there on his motorcycle and drove the same rashly due to which an altercation took place between him and the complainant party. On the next date i.e. on 02.10.2022 at about 09:00 PM the appellant alongwith all the other co-accused came to the spot and argument occurred between the parties. The appellant picked up a stone and threw it upon complainant resulting in injury on his eyes. Co-accused Salman picked up an iron *Farsi* and assaulted Mahesh on his head. The appellant also threw a stone on the shoulder of Shyamlal. Thereafter, all the accused persons ran away from the spot.

On lodging of the report, the appellant had been implicated and arrested for the present offence.

3. Learned counsel for the appellant submits that the appellant is an innocent person and he has falsely been implicated in this offence. There is no allegation against him of causing any serious injury to the complainant party. He is alleged only to have thrown two stones upon two persons. The injuries received by them as a result of the same are also simple in nature. The grievous injury to Mahesh has been caused by co-accused Salman. The appellant had not come armed with any weapon nor has any recovery been made from him. On such grounds prayer for grant of bail to the appellant has been made.

4. The aforesaid prayer has been opposed by the learned counsel for the respondent/ State as well as by the counsel for the complainant by submitting that looking to the allegations levelled against him the appellant is not entitled to be released on bail.

5. I have heard the learned counsel for the parties and have perused the case-diary.

6 . The allegation against the appellant is of assaulting Shivlal and Shyamdas by a stone. The injuries received by those persons as a result of said assault are simple in nature. The grievous injury has been inflicted upon Mahesh by co-accused Salman. No recovery has been made from the appellant nor is he stated to have been armed with any weapon. Thus, in view of the totality of the facts of the case, without commenting on merits, the appeal is liable to be allowed. Accordingly, the appeal is allowed and the impugned order is set-aside.

7. It is directed that appellant shall be released on bail, on his executing a personal bond in the sum of Rs.50,000/- (Rupees Fifty

Thousand Only) and on furnishing one solvent surety in the like amount to the satisfaction of the trial Court for his appearance as and when directed.

8. It is also observed that after being released on bail, if the appellant again indulge himself in any criminal activity, the present bail order shall stand cancelled without further reference to the Court and the State/Prosecution shall be entitled to arrest the appellant in the present case also.

9. It is also directed that the appellant will abide by all the conditions enumerated under Section 437(3) of the Cr.P.C.

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

11. Accordingly, Cri. Appeal. No.10326 of 2022 stands disposed off.

Certified copy as per rules.

**(PRANAY VERMA)**

**JUDGE**

*Anushree*