

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

BEFORE

HON'BLE SHRI JUSTICE PRANAY VERMA

ON THE 12th OF DECEMBER, 2022

CRIMINAL APPEAL No. 10806 of 2022

BETWEEN:-

**GOPAL S/O SITARAM, AGED ABOUT 30 YEARS,
OCCUPATION: AGRICULTURIST, R/O GRAM NAGRA
TEHSIL RATLAM DISTRICT RATLAM (MADHYA
PRADESH)**

.....APPELLANT

(BY SHRI SANTOSH KUMAR MEENA - ADVOCATE)

AND

- 1. THE STATE OF MADHYA PRADESH STATION
HOUSE OFFICER THROUGH POLICE STATION
BILPANK DISTRICT RATLAM. (MADHYA
PRADESH)**
- 2. VICTIM X THROUGH P.S. BILPANK DISTRICT
RATLAM (MADHYA PRADESH)**

.....RESPONDENTS

***(BY SHRI AVINASH SIRPURKAR - SENIOR ADVOCATE WITH SHRI
KAMAL KUMAR TIWARI - ADVOCATE)
BY SHRI MANISH GUPTA - ADVOCATE FOR THE OBJECTOR)***

CRIMINAL APPEAL No. 10834 of 2022

BETWEEN:-

**DR. ABHAY OHARI S/O GANPATLAL OHARI, AGED
ABOUT 46 YEARS, OCCUPATION: DOCTOR SHAKTI
NAGAR, MAIN ROAD. RATLAM DISTRICT RATLAM
(MADHYA PRADESH)**

.....APPELLANT

(BY SHRI TARUN KUSHWAH - ADVOCATE)

AND

1. THE STATE OF MADHYA PRADESH STATION HOUSE OFFICER THROUGH POLICE STATION BILPANK DISTRICT RATLAM. (MADHYA PRADESH)
2. VIKAS S/O MADANLAL PARGI THROUGH P.S. BILPANK, DISTT. RATLAM (MADHYA PRADESH)

....RESPONDENTS

(BY SHRI AVINASH SIRPURKAR - SENIOR ADVOCATE WITH SHRI KAMAL KUMAR TIWARI - ADVOCATE BY SHRI MANISH GUPTA - ADVOCATE FOR THE OBJECTOR)

CRIMINAL APPEAL No. 10843 of 2022

BETWEEN:-

DR. ANAND RAI S/O SHRI AWADH NARAYAN RAI, AGED ABOUT 45 YEARS, OCCUPATION: GOVT. SERVICE R/O 85 SAMPAT HILLS BICHOLI MARDANA INDORE (MADHYA PRADESH)

....APPELLANT

(BY SHRI R S CHAWRA - SENIOR ADVOCATE WITH SHRI ANSHUMAN SHRIVASTAVA - ADVOCATE)

AND

1. THE STATE OF MADHYA PRADESH STATION HOUSE OFFICER THROUGH POLICE STATION BILPANK RATLAM (MADHYA PRADESH)
2. VIKAS PARGI S/O SHRI MADANLAL PARGI OCCUPATION: NIL PALSODI, DINDAYAL NAGAR, DISTRICT RATLAM (MADHYA PRADESH)

....RESPONDENTS

(BY SHRI AVINASH SIRPURKAR - SENIOR ADVOCATE SHRI KAMAL KUMAR TIWARI - ADVOCATE BY SHRI MANISH GUPTA - ADVOCATE FOR THE OBJECTOR)

CRIMINAL APPEAL No. 10886 of 2022

BETWEEN:-

VILESH KHARADI S/O RAMESH KHARADI, AGED ABOUT 26 YEARS, OCCUPATION: STUDENT R/O LAMBI SADAD TEHSIL RATLAM (MADHYA PRADESH)

(OM PRAKASH BORASIYA - ADVOCATE)

AND

1. **THE STATE OF MADHYA PRADESH STATION HOUSE OFFICER THROUGH POLICE STATION BILPANK RATLAM (MADHYA PRADESH)**
2. **VIKAS S/O MADANLAL PARGI, AGED ABOUT 30 YEARS, PALSODI P.S. D.D. NGR, RATLAM (MADHYA PRADESH)**

.....RESPONDENTS

(BY SHRI AVINASH SIRPURKAR - SENIOR ADVOCATE WITH SHRI KAMAL KUMAR TIWARI - ADVOCATE BY SHRI MANISH GUPTA - ADVOCATE FOR THE OBJECTOR)

These appeals coming on for admission this day, the court passed the following:

ORDER

01. Since these appeals arise out of the same crime number and are related to the same offence they have been heard together and are being decided by a common order.

02. These criminal appeals under Section 14-A (2) of the Scheduled Caste and Scheduled Tribe (Prevention of Atrocities) Act by the appellants, who have been arrested by Police on 15.11.2022, 16.11.2022 respectively in connection with Crime No.653/2022, registered at Police Station Bilpank, District Ratlam (M.P) concerning offence under Sections 294, 341, 353, 332, 146, 147, 336, 506, 333 of the IPC & Section 3 (1)(r)(S), 3 (2) (va) of SC/ST (Prevention of Atrocities) Act against the order dated 17.11.2022 passed by the Special Judge (Prevention of Atrocities) Act Ratlam in vide Bail Applications No.706/2022, 709/2022, 706/2022 & 710/2022 whereby the prayer for grant of regular bail has been rejected.

03. As per the prosecution on 15.11.2022 a report was lodged by the

complainant Vikas to the effect that he had gone to Badchapura for attending the program of inauguration of a statue of Lord Birsa Munda on the occasion of Birsa Munda Jayanti. After the program he was returning to Ratlam via Bhatibarodia behind the vehicle of local MLA, members of Parliament, Collector and other vehicles. At about 1:00 pm near Ganpati Temple at Gram Dharad the members of JAYAS Sangathan stopped the vehicles and sat on the road and caused a traffic jam. They abused the members of Parliament and all other officials. The Collector along with his gunman Sandeep Chandel and others went to talk to them but the members of the Sangathan started fighting with them and throwing stones on the vehicles in which the gunman of the Collector received injury near his nose which started bleeding. Those people were not listening to anyone and were misbehaving with the Police party and were causing obstructions in the Government work and were threatening everyone with life. Those persons included the present appellants. They were about 40-50 in number and caused the traffic jam for about an hour. On the report lodged by the complainant investigation was commenced and statements of witnesses were recorded and the gunman of Collector namely Sandeep Chandel was medically examined in which a fracture was found and the appellants have been implicated and arrested for the present offence.

04. Learned counsel for the appellants submits that the appellants are innocent and have been falsely implicated in the case. They have been implicated solely on account of political rivalry and have not committed any incident as alleged against them. There is nothing on record to indicate the presence of present appellants on the spot at the relevant time. There were allegedly 40-50 people but no role has been attributed to the appellants. From out of the persons who were in the vehicle, only one person is stated to have

received injury and it cannot be said as to who has caused the said injury to him. There is no legal evidence to connect the appellants with the present crime. The story as put forth by the prosecution is highly doubtful. In the FIR as well as in the statement of witnesses no specific allegations have been levelled against the appellants and no specific overt act has been attributed to them of causing any injury. The appellants were not known to the complainant or to the witnesses hence their names could not have been included which has been done with malafide intention. In any case no injury has been caused on any vital part of the body to the injured. The appellants were not present in the mob who were protesting at the place of incident. They were far away from the place of incident. The allegations levelled against the appellants by themselves do not constitute any offence against them. There is no ingredient for attracting the Section 3(1)(r)(iii) Section 3 (2) (va) of the SC/ST Act. The appellants are reputed persons and their incarceration shall have a great adverse effect upon their reputation. The investigation has almost been completed and no further custodial interrogation of the appellants is required. It is further submitted that since there is no material to indicate the presence of appellants on the spot they deserve to be released on bail.

05. The aforesaid prayer has been opposed by learned counsel for the respondent/State as well as the learned counsel for the objector submitting that there is cogent and positive material available on record to establish the presence of the appellants on the spot at the time of the incident. The entire incident is quite serious in nature where a mob stopped the vehicles of the elected representatives and Government officers and pelted stones on them in which injury has also been caused to gunman of the Collector. He has suffered

a fracture and is at present not even in a state to give any statement. The investigation is still in progress and charge sheet is yet to be filed hence further custody of the appellants is essential. It is hence submitted that the appellants do not deserve to be granted the benefit of bail.

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

07. The appellants are alleged to have stopped motorcade of the elected representatives and Police officials and having pelted stones at the vehicles and the persons travelling in them and injury has been caused to the gunman of the Collector in the form of a fracture on the face. He is stated to be undergoing treatment and not in a position to record his statement. From the record it also appears that at the relevant time prohibitory order under Section 144 of the Cr.P.C. had been enforced despite which mob of 40-50 people had collected without obtaining the requisite permission. *Prima facie* there appears to be direct evidence of involvement of appellants in the present matter. The appellants have been identified by the witnesses whose statements have been recorded during the investigation. Since it was a mob of 40-50 people who had gathered with a common intention of blocking the motorcade and causing injury to the passengers and throwing stones at the vehicles, the appellants would also be liable for the act of each and every person who was a part of the mob. In any case there appears to be *prima facie* involvement of the appellants in the whole incident. Moreover investigation is still pending and charge sheet is yet to be filed hence requirement of further custodial interrogation of the appellants appears to be necessary.

08. Thus in my opinion, in view of the seriousness of the allegations levelled against the appellants, the nature of offence and the material on record

against the appellants, they do not deserve to be granted the benefit of bail. The appeals are thus found to be devoid of merits and are hereby dismissed.

(PRANAY VERMA)
JUDGE

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