

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

HON'BLE SHRI JUSTICE ANIL VERMA

ON THE 26th OF MAY, 2022

CRIMINAL APPEAL No. 3794 of 2022

Between:-

**KAMALSINGH S/O MANSINGH , AGED ABOUT 41 YEARS,
OCCUPATION: AGRICULTURE VILLAGE JHARKHEDI TEHSIL TONK
KHUD (MADHYA PRADESH)**

.....APPELLANT

(BY SHRI MEHUL VERMA, ADVOCATE)

AND

- THE STATE OF MADHYA PRADESH STATION HOUSE OFFICER**
- 1. THROUGH POLICE STATION TONK KHURD (MADHYA PRADESH)**
 - 2. ANKIT VILL BISALKHEDI, P.S. TONK KHURD (MADHYA PRADESH)**

.....RESPONDENTS

(BY SHRI RAJESH JOSHI, GA)

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

ORDER

Notice has been served to the prosecutrix, but nobody appeared on her behalf.

This (**first**) criminal appeal u/S. 14-A(2) of the Scheduled

Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 has been filed against the order dated 11/04/2022 passed by Special Judge, Dewas in Bail Application no.238/2022 in connection with Crime No.41/2022 registered at P.S.-tonk Khurd, District-Dewas for commission of offence u/S 307, 323, 324, 365, 452, 34 of the Indian Penal Code, 1860 and Sec. 3(2)(v-a) and 3(2)(v) of the Scheduled Caste /Scheduled Tribes (Prevention of Atrocities) Act, 1989.

As per prosecution story, the complainant made complaint that around 2 years back he married to the daughter of the co-accused Bhawarsingh, who was against the marriage, and after that, he was residing with her wife at Dewas. When he came to know about the death of his uncle, he along with his wife came to village Bisalkhedi and the co-accused persons came to his house by pickup vehicle and assaulted him with farsi and wooden sticks, due to which, he sustained injuries and also took his wife with them. The role of the applicant is that he was driving the pickup vehicle, thereafter Police Authorities of Police Station- Tonk khurd registered the case against the applicant punishable U/s 307, 323, 324, 365, 452, 34 of IPC 3(2) (V-A) 3(2)(V) of SC&ST Act.

Learned counsel for the appellant submits that the applicant is an innocent person and has been falsely implicated in this case . He is in custody since 02/02/2022.He was not named in the FIR. He has no assaulted the prosecutrix and just being driver of the Pick-up vehicle, in which, co-accused came. He is falsely implicated in this

case. Investigation is over and charge-sheet has been filed and final conclusion of trial will take sufficiently long time. Under these circumstances, learned counsel prays that the impugned order dated 11/04/2022 be set aside and the appellant be released on bail.

Per-contra, learned PL has opposed the appeal and prays for its rejection, however, he fairly admits that there is no criminal case found against the appellant.

Perused the impugned order passed by the trial Court as well as the case diary.

Considering the all the facts and circumstances of the case, nature and gravity of allegations as also the fact that present appellant is not named in the FIR; he has been made accused on the basis of memorrundam statements of the witnesses recorded under section 161 of Cr.PC; he has not participated in the incident; the appellant is in jail since 02/02/2022 investigation is over and therefore, no further custodial interrogation is required; possibility of delay in conclusion of the trial cannot be ruled out and in view of the evidence available on record,, I deem it proper to release the appellant on bail.

Accordingly, without commenting on the merits of the case, present criminal appeal is **allowed**. The impugned order dated 11/04/2022 passed by the learned Special Judge (SC & ST Act), Dewas is set aside and it is directed that the appellant shall be released on bail on his furnishing personal bond in the sum of **Rs.70,000/- (Rs. Seventy thousand)** with one solvent surety in the like amount to the

satisfaction of the trial Court before the trial Court for his regular presence during trial. He will also abide by all the conditions enumerated u/S. 437(3) Cr.P.C.

Certified copy, as per Rules.

(ANIL VERMA)
VACATION JUDGE

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