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CRA-10532-2024

IN THE HIGH COURT OF MADHYA PRADESH
AT INDORE

BEFORE

HON'BLE SHRI JUSTICE G. S. AHLUWALIA

ON THE 13th OF SEPTEMBER, 2024CRIMINAL APPEAL No. 10532 of 2024*ANIL @ ARJUN UPADHYAY**Versus**THE STATE OF MADHYA PRADESH AND ANOTHER*

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Appearance:

Shri Narinder Pal Singh Ruprah with Shri Digpal Singh Rathore -
Advocate for the appellant.

Shri Amit Bhatia - GA for respondent/State.
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ORDER

1. This application under Section 14-A(2) of Scheduled Caste and Scheduled Tribe (Prevention of Atrocities) Act for grant of anticipatory bail.

2. It is submitted by counsel for the appellant that the appellant is working as an employee of liquor contractor who has 19 licenses to run composite liquor shop in Jobat District Alirajpur. Certain local musclemen used to pressurized the appellant to supply liquor free of cost. As the liquor contractor is making payment of licence fee to the State, therefore, it was not possible for him to distribute liquor free of cost. Accordingly, one FIR No.291/2024 was lodged in P.S Jobat, District Alirajpur for offence under Sections 294, 323, 506/34 of IPC against Gaurav Patliya and Adarsh Bamaniya alleging that they had assaulted for non supply of liquor free of cost. Another FIR No. 105/2024 was lodged at PS Bakhatgarh, District



Alirajpur on 26.5.2024 against the complainant Pushpraj Patel for offence under Sections 294, 323, 504/34 of IPC. Third FIR was lodged in Crime No.132/2024 registered at P.S Kattiwada, District Alirajpur on 05.7.2024 against Sunil, Arvind, Ajju, Mangla and Mohan. Fourth FIR was again lodged on 5.7.2024 in Crime No.133/2024 at P.S. Kattiwada, District Alirajpur against unknown persons. Since the complainant party is in habit of extorting money as well as of taking liquor without making payment of price, therefore, on 30.7.2024 the complainant and other prosecution witnesses came to the house of Sunil Dogra and assaulted Sunil Dogra by fists and blows. Giriraj and Indrajit were also assaulted by fists and blows. His manager Arjun Upadhyay was also abused filthily and they also extended the threat that since Sunil Dogra is showing off too much therefore, he should immediately leave the district of Alirajpur. It is submitted that since the complainant party are influential persons, therefore, the FIR of Sunil Dogra was not immediately lodged, but it was lodged on 31.7.2024 and in the meanwhile the complainant party lodged FIR No. 453/2024 at PS Alirajpur, District Alirajpur alleging that they were called by Arjun Upadhyay at his residence and accordingly complainant Pushpraj alongwith his friends Chital Pawar, Arvind Patel, Dhiraj Gorana, Nilesh Vishwakarma, Pradeep and Ritesh Baghel went to the house of Arjun Upadhyay. Arjun Upadhyay, Lalit and one Sikh whose name is not known to the complainant as well as five other persons were present. Sikh was having a gun on his shoulder and was having a *Tomy* in his hand, whereas Lalit and Arjun were having revolvers in their hand. Other persons were also having weapons. As



soon as the complainant Pushpraj came down from the vehicle, Arjun Upadhyay scolded him that he is showing off too much and fired a gun shot, but the said gun shot missed the complainant and thereafter started assaulting the complainant and his companions. Lalit did not fire any gun shot. When Dhiraj Gorana and Nilesh Vishwakarma tried to intervene, then one companion of Arjun assaulted Nilesh by *Falia* causing injury on his right hand, whereas Sikh person assaulted Dhiraj on his head by *Tomy*, as a result Dhiraj sustained injury. All of them were saying that today you have survived and in case if they come back, then they will kill you. Their Bolero Jeep was also damaged.

3. It is submitted that in fact it was the complainant party who came to house of Arjun Upadhyay to take liquor without making payment of price. It is further submitted by counsel for the appellant that since there is nothing on record to show that the offence was committed knowing well that the complainant belongs to Scheduled Caste, therefore, in the light of judgment passed by Supreme Court in the case of **Prithvi Raj Chouhan vs. Union of India reported in 2020 SCC Online 159** the bar as contained under Section 18 of SC/ST Act, no offence under Scheduled Caste & Scheduled Tribe (Prevention of Atrocities) Act would be made out.

4. Per contra, the application is vehemently opposed by counsel for the State. It is submitted that since the complainant party was invited by Arjun Upadhyay, therefore, they went to his house. The liquor cannot be stored in the house, therefore, there is no question of asking for liquor without making payment of price. It is submitted that corresponding injuries were found on



the body of injured persons. So far as registration of offence under different provision of SC/ST Act is concerned, it is clear that the appellant was aware of the fact that Pushpraj belongs to Scheduled Caste because an FIR was also lodged against him much prior to the date of incident. Therefore, it is clear that the offence was committed with an intention to humiliate and insult the complainant and it was committed with full knowledge that the belongs to Scheduled Caste.

5. Heard the learned counsel for the parties.

6. Considering the allegations made against the appellant as well as in view of the bar as contained under Section 18, the application for grant of anticipatory bail is hereby **rejected**.

Certified copy as per rules.

(G. S. AHLUWALIA)
JUDGE