



NEUTRAL CITATION NO. 2025:MPHC-JBP:7868

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

**BEFORE**

**HON'BLE SHRI JUSTICE SURESH KUMAR KAIT,  
CHIEF JUSTICE**

**&**

**HON'BLE SHRI JUSTICE VIVEK JAIN**

**CRIMINAL APPEAL No. 9530 of 2024**

***DHARAM SINGH PARIHAR***

*Versus*

***THE STATE OF MADHYA PRADESH AND OTHERS***

**WITH**

**CRIMINAL APPEAL No. 9968 of 2024**

***RAVI YADAV***

*Versus*

***THE STATE OF MADHYA PRADESH AND OTHERS***

**CRIMINAL APPEAL No. 10414 of 2024**

***DEVDAAT BANWASI AND OTHERS***

*Versus*

***THE STATE OF MADHYA PRADESH AND OTHERS***

**CRIMINAL APPEAL No. 13656 of 2024**

***SHAJID KHAN***

*Versus*

***THE STATE OF MADHYA PRADESH AND OTHERS***

**Appearance:**

Shri Ranjan Banerjee, Ms. Abhilasha Bagri, Shri Aryan Urmaliya, Shri Manoj Kumar Mishra and Shri Shailendra Dwivedi – Advocates for the appellants in their respective appeals.



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Shri Anubhav Jain – Government– Advocate for respondent/State.

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**Reserved on** - 10.02.2025

**Pronounced on** - 17.03.2025

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**ORDER**

***Per: Hon'ble Shri Justice Suresh Kumar Kait, Chief Justice:***

1. By order dated 09.09.2024 passed in Criminal Appeal No.9530/2024, the learned Single Judge has referred the following question to be considered by this Court:-

*"as to whether a second criminal appeal is maintainable against the same impugned order rejecting bail, after rejection of first criminal appeal under Section 14(A) of the SC and ST (Prevention of Atrocities) Act and the accused is not required to file a fresh application for grant of bail before the Special Court after dismissal of first criminal appeal by this Court".*

2. Similar is the situation in connected Criminal Appeal Nos.9968/2024, 10414/2024 and 13656/2024. Hence, we are proceeding ahead to consider the said referred question.

3. When the matter came before the learned Single Judge, he found two divergent views on the issue in question expressed by two different learned Single Benches. On one way, in Criminal Appeal No.4668/2017 (***Ramu @ Ramlal Vs. State of Madhya Pradesh*** vide order dated 05.12.2017 following observations have been made:-

*"10. Further, the 'law of bail' is an integral part of Article 21 of the Constitution of India which provides that no*



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*person shall be deprived of life and liberty except by due process of law. It is often said that 'bail' is the right and refusal thereof is an exception thereto.*

*11. In the backdrop of the aforesaid, the provision for 'appeal' under section 14(A)(2) of the Act of 1989 in effect is an application for regular bail against rejection order by the Special Court or the Exclusive Special Court under section 439 Cr.P.C., for the reason that section 14(A)(2) opens up non-obstinate clause providing; notwithstanding anything contained in subsection (3) of section 378 of the Code of Criminal Procedure, 1973 (2 of 1974), an appeal shall lie to the High Court against an order of the Special Court or the Exclusive Special Court granting or refusing bail.*

*12. Section 378 deals with appeal in case of acquittal, sub-section (3) of section 378 Cr.P.C. provides that no appeal to the High Court under sub-section (1) or subsection (2) shall be entertained except with the leave of the High Court.*

*As such, the nomenclature of 'appeal' used in section 14A of the Act of 1989 is not an appeal in strict sense but, a provision enabling a person before the High Court against granting or refusing bail by the Special Court or the Exclusive Special Court specified therein.*

*If an appeal under section 14(A)(2) of the Act of 1989 for grant of bail is refused by the High Court and the accused prefers a fresh appeal for grant of bail then if interpreted the word 'appeal' in its strict sense as an appeal under section 378 Cr.P.C., then the provision shall be in direct conflict with the settled law as the principles of res judicata or constructive res judicata does not apply to a bail application and also in conflict with the personal liberty enshrined under Article 21 of the Constitution of India.*

*13. In view of the discussion in the preceding paragraphs of the order, the objection on behalf of the respondent/State*



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*is overruled. It is held that a fresh appeal is maintainable after rejection of first appeal under section 14(A)(2) of the Act of 1989.*

4. On other way, in another case i.e. ***Atul Rajput Vs. The State of Madhya Pradesh & another*** in Criminal Appeal No.3261/2024 vide order dated 10.04.2024 relying on the decision dated 31.08.2023 passed in Criminal Appeal No.7453/2023 (***Ketan Vs. State of M.P.***), the another coordinate Single Bench observed as follows:

*‘3. The question which arise for consideration is whether second or more appeal under Section 14-A of the SC/ST (Prevention of Atrocities) Act can be repeatedly filed against one and same order by which an application under Section 439 of Cr.P.C. has been dismissed by the trial Court.*

*4. In the case, two appeals preferred assailing order dated 26.10.2021 have already been dismissed. As per the law laid down by the Co-ordinate Bench of this Court in the case of Ketan vs. The State of M.P. and others order dated 31.08.2023 passed in Cr.A. No.7453/2023 , in para 20 and 21 of the order, Coordinate Bench has held that an appeal under Section 14-A (2) of the Act is maintainable against a fresh order passed by the Special Court rejecting the subsequent application for grant of bail irrespective of the fact whether the appeals are mentioned as second, third or fourth. The mere mentioning of criminal appeal as second, third or fourth would not change the right of the applicant to challenge the fresh order.*

*5. A Division Bench of the High Court of Chhattisgarh in the case of Dushyant Pandey vs. State of Chhattisgarh by order dated 12.04.2023 passed in Cr.A. No.1797/2022 also answered the reference in following terms. Para 31 is reproduced as under:*

*"Thus, we are of the considered opinion that once the appeal under Section 14A(2) of the POA Act is dismissed by this*



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*Court on merits, the subsequent appeal under any change of circumstances would not be maintainable for two reasons firstly, that by the statutory scheme of appeal enacted under Section 14A, the jurisdiction of this Court under Section 439 of the CrPC stands impliedly excluded as the power to grant bail under Section 439 of the CrPC has now only been vested to the Special Court constituted under Section 14 of the POA Act and this Court is only empowered to hear appeal under Section 14A(2) of the POA Act against refusal or grant of bail by the Special Court under the POA Act and secondly, that entertaining the subsequent appeal under change of circumstances directly would amount to review of its earlier order which is expressly provided by Section 362 of the CrPC, as the Court has also become functus officio in respect of that matter. Accordingly, we hereby answer the reference as under: -*

*"1. Once an appeal under Section 14A of the POA Act against the order passed by the Special Court rejecting the application under Section 439 of the CrPC is decided on merits or otherwise by this Court, subsequent appeal under change of circumstances would not be directly maintainable under Section 14A of the POA Act before this Court even on change of circumstances and remedy to the accused, if any, is to file an application before the Special Court for grant of bail.*

*2. Since the answer to the first stated question is in negative, it would not be expedient to answer the second stated question."*

*6. In the light of above settled law, I am of the considered view that this appeal which is a third appeal against one and same order which have already been appealed two times being not maintainable is dismissed.*

*7. However, appellant shall be at liberty to move fresh application under Section 439 of Cr.P.C. before the trial Court. In case repeated bail application is dismissed, he shall*



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*be at liberty to prefer an appeal before this Court in accordance with the provisions of the Act.”*

5. Learned counsel for the appellants *inter alia* submitted that there are two contradictory views expressed by the two different Single Benches under reference, which requires to be considered and decided by this Court in either way.

6. Shri Anubhav Jain, learned Government Advocate argued that repeat appeal under Section 14-A(2) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 (for short “the Special Act”) for grant of bail before this Court is not maintainable but fresh bail application under Section 439 of the Cr.P.C. for the offences under the Special Act is maintainable before the Trial Court/Special Court. Relying on the judgments passed by the learned Single Bench in Criminal Appeal No.7453/2023 (*Ketan Vs. State of M.P.*) vide order dated 31.08.2023, order dated 05.04.2023 passed in Criminal Appeal No.1502/2023 (*Neeraj Verma Vs. State of M.P.*) and order dated 12.04.2023 passed by the Division Bench of High Court of Chhattisgarh in Criminal Appeal No.1797/2022 (*Dushyant Pandey Vs. State of Chhattisgarh*), he contended that once the High Court exercises the appellate jurisdiction while deciding the bail application captioned as ‘criminal appeal’ under Section 14-A(2) of the Special Act for the offence under the Special Act against the order of the Special Court/Trial Court granting or refusing to grant bail under Section 439 of the Cr.P.C., the statutory enactment of the legislature does not confer authority upon the High Court to exercise appellate jurisdiction against the same order of the Special Court. However, fresh bail application under Section 439



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of the Cr.P.C on the changed circumstances is maintainable before the Trial Court/Special Court, against which whether allowing or refusing to grant bail, the applicant can invoke the appellate jurisdiction of the High Court under Section 14-A(2) of the Special Act against that order of the Special Court.

7. Heard learned counsel for the parties on the said limited point.

8. To resolve the issue in question, it is necessary to consider the legal aspect on the subject. The Parliament enacted the Special Act which came into effect from 12<sup>th</sup> September, 1989. As per Section 2(d), “Special Court” means a Court of Session specified as a Special Court in Section 14. The “Exclusive Special Court” has been defined as per Section 2(bd) that “Exclusive Special Court” means the Exclusive Special Court established under sub-section (1) of Section 14 exclusively to try the offences under this Act.

9. Section 14 of the Special Act envisages establishment of the “Special Court” and “Exclusive Special Court” for the purpose of providing speedy trial of the cases under the Special Act.

10. The Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Amendment Act, 2015 was brought into force with effect from 26.01.2016 by which the extensive amendment was made in the Act. Section 14 of the Act provides for Special Court and Exclusive Special Court with power and jurisdiction to try the offences under the Act and further, power to directly take cognizance of the offence under the Act was introduced. Section 14A was also introduced with effect



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from 26.01.2016 which provides for appeals from any judgment, sentence or order, not being an interlocutory order, of a Special Court or an Exclusive Special Court, to the High Court both on facts and on law. Sub-section (2) of Section 14A further provides that an appeal shall lie to the High Court against an order of the Special Court or the Exclusive Special Court granting or refusing bail. For ready reference, Section 14 of the Special Act is reproduced as follows:

*“14. Special Court and Exclusive Special Court.—(1) For the purpose of providing for speedy trial, the State Government shall, with the concurrence of the Chief Justice of the High Court, by notification in the Official Gazette, establish an Exclusive Special Court for one or more Districts:*

*Provided that in Districts where less number of cases under this Act is recorded, the State Government shall, with the concurrence of the Chief Justice of the High Court, by notification in the Official Gazette, specify for such Districts, the Court of Session to be a Special Court to try the offences under this Act:*

*Provided further that the Courts so established or specified shall have power to directly take cognizance of offences under this Act.*

*(2) It shall be the duty of the State Government to establish adequate number of Courts to ensure that cases under this Act are disposed of within a period of two months, as far as possible.*

*(3) In every trial in the Special Court or the Exclusive Special Court, the proceedings shall be continued from day-to-day until all the witnesses in attendance have been examined, unless the Special Court or the Exclusive Special Court finds the adjournment of the same beyond the following day to be necessary for reasons to be recorded in writing:*





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*Provided that when the trial relates to an offence under this Act, the trial shall, as far as possible, be completed within a period of two months from the date of filing of the charge sheet”.*

11. Sub-section (2) of Section 14-A of the Special Act specifically provides that an appeal shall lie to the High Court against an order of the Special Court or the Exclusive Special Court granting or refusing bail. Section 14-A of the Special Act is quoted as hereunder:-

*“14-A. Appeals.—(1) Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974), an appeal shall lie, from any judgment, sentence or order, not being an interlocutory order, of a Special Court or an Exclusive Special Court, to the High Court both on facts and on law.*

*(2) Notwithstanding anything contained in sub-section (3) of Section 378 of the Code of Criminal Procedure, 1973 (2 of 1974), an appeal shall lie to the High Court against an order of the Special Court or the Exclusive Special Court granting or refusing bail.*

*(3) Notwithstanding anything contained in any other law for the time being in force, every appeal under this section shall be preferred within a period of ninety days from the date of the judgment, sentence or order appealed from:*

*Provided that the High Court may entertain an appeal after the expiry of the said period of ninety days if it is satisfied that the appellant had sufficient cause for not preferring the appeal within the period of ninety days:*

*Provided further that no appeal shall be entertained after the expiry of the period of one hundred and eighty days.*

*(4) Every appeal preferred under sub-section (1) shall, as far as possible, be disposed of within a period of three months from the date of admission of the appeal.”*

12. The word used in Section 14A of the Special Act is “appeal”. The scope of appeal is limited only to see correctness of the order passed by



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Trial Court/Special Court. Once the appeal for granting or refusing bail has been considered by the High Court then again in the event of change of circumstances, the High Court cannot consider repeated appeal against the same order granting or refusing bail. The reason is that the doctrine of *functus officio* would apply in such a case. In appeal, the Court is required to consider whether the Special Court has erred in granting or denying relief to the appellant on the basis of the order under challenge. The Court is required to see whether the order of the Court below can be sustained and its findings are in accordance with the legal and factual issue involved in the consideration of bail application of the accused by the Special Court or not.

13. The Supreme Court in the case of ***Shakar Kerba Jadhav Vs. State of Maharashtra*** reported in 1969 2 SCC 793 has held that a “Court of Appeal” is a “Court of Error” and its normal function is to correct the order of court below in appeal. Its jurisdiction should be coextensive with that of the Trial Court. Therefore, the Court while hearing the appeal under Section 14A(2) of the Special Act considers the error committed by the Special Court and grant/deny relief after such consideration.

14. The only remedy would be to file fresh application before the Special Court for grant of bail. In that situation, if the bail application is rejected by the Special Court then repeat appeal can be filed before the High Court against that order granting or refusing the bail. It is pertinent to mention here that mere mentioning of criminal appeal as second, third or fourth would not change the right of the applicant to challenge the fresh order.



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15. The section does not contemplate that a second criminal appeal will lie to the High Court against the same rejection order of the Special Court, if the High Court earlier dismissed the appeal preferred against the order of rejection passed by the court below. Rightly so, because an order once affirmed or set aside in appeal by the High Court cannot be revisited by means of another Criminal Appeal subsequently filed. Therefore, every time an accused has to approach the court below for grant of bail unsuccessfully, he may prefer a fresh criminal appeal against the order passed therein before the High Court.

16. On earlier occasion, the learned Single Judge of this Court in the case of *Neeraj Vs. State of Madhya Pradesh* in Criminal Appeal No.1502/2023 by order dated 05.04.2023 considering the similar issue observed that once an appeal has been decided under Section 14A of the Special Act, the order that was challenged in the said appeal ceases to exist, therefore, the second appeal against the original order granting or rejecting bail passed by the Special Court or the Exclusive Special Court, is not maintainable. The appellant would have to approach the Special Court or Exclusive Special Court afresh for an order of bail. The learned Single Judge further observed that the constraint of an order passed by the High Court under 438 or 439 of Cr.P.C. barring the inferior court from entertaining an application for bail in line with judicial propriety, will not apply in the case of a fresh application under the Special Act. Even though the High Court may have dismissed an appeal against the previous order passed by the learned Court below rejecting the application for bail of the accused, a change in circumstance demonstrated by the accused before the learned Trial Court does not bar



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it from entertaining the fresh application. The relevant paras are as follows:-

*“4. Section 20 of the Special Act provides that the Act shall have an overriding effect over all other laws which are inconsistent with the Special Act. Section 14A of the Special Act deals with appeals. Sub-section (1) of Section 14 (A) ousts the jurisdiction of the Cr.P.C. with regard to appeals arising from a judgment, sentence or order, not being an interlocutory order, passed by a Special Court or an Exclusive Special Court to the High Court, both on facts and on law.*

*5. Subsection 2 of Section 14 (A) provides that an appeal shall lie to the High Court against an order of the Special Court or the Exclusive Special Court granting or refusing bail. A purposive interpretation of the said provision reveals that in the scheme of the Special Act, it is only the Special Court or the Exclusive Special Court, which has the authority to entertain an application under section 438 and 439 of the Cr.P.C. Either of the parties, who are dissatisfied by the order passed by the aforementioned Courts, can approach the High Court under Sub-section 2 of Section 14A of the Special Act. The High Court, when it examines the order passed by the lower Court, is acting in an appellate capacity under section 14A of the Special Act which is different from its concurrent jurisdiction under Section 438 or 439 of the Cr.P.C. While entertaining an application for bail under Section 438 or 439 Cr.P.C., the High Court, which has concurrent jurisdiction along with the Court of Sessions and can examine first hand whether, on the basis of the allegations against an accused, he is entitled for the benefit of bail or anticipatory bail. However, while acting as a court of appeal under section 14A(2), the High Court is not acting as a Court of original jurisdiction but, it is performing the function of an appellate Court where all that it has to examine is the correctness of the order passed by the learned Court below under Section 438 or 439 Cr.P.C. If the High Court approves of the order passed by the learned Court below then it dismisses the appeal upholding the impugned order. However, if the High Court is of the opinion that the order granting or rejecting bail*



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*to the accused by the learned Court below is not in order, then it allows the appeal and sets aside the impugned order. Once an appeal has been decided under 14A the order that was challenged in the said appeal ceases to exist. Therefore, a second appeal against the original order granting or rejecting bail passed by the Special Court or the Exclusive Special Court, is not maintainable.*

6. *Once an appeal is dismissed, the appellant would have to approach the Special Court or the Exclusive Special Court afresh for an order of bail. While entertaining such a second application, the learned Court below can pass an order granting bail, if it finds a change in circumstance. The constraint of an order passed by the High Court under 438 or 439 barring the inferior Court from entertaining an application for bail in line with judicial propriety, will not apply in the case of a fresh application under the Special Act. Even though the High Court may have dismissed an appeal against the previous order passed by the learned Court below rejecting the application for bail of the accused, a change in circumstance demonstrated by the accused before the learned trial Court does not bar it from entertaining the fresh application.”*

17. The similar issue was considered by the learned Single Bench of this Court in the case of ***Ketan Vs. The State of Madhya Pradesh*** CRA No.7453/2023 vide order dated 31.08.2023 wherein the learned Single Judge observed that under Section 14A(2) of the Special Act, criminal appeal is maintainable against an order of the Special Court or Exclusive Special Court granting or refusing bail. After rejecting or withdrawal of criminal appeal before this Court and approaching the Special Court for grant of bail with the changed circumstances, the order passed by the Special Court is fresh order on merit and, therefore, the same can be challenged under Section 14A(2) by filing an appeal before the High Court. The learned Single Judge further



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observed that subsequent appeal for grant of bail is maintainable against fresh order passed by the Special Court rejecting the bail irrespective of the fact whether the appeals are mentioned as second, third or fourth. The learned Single Judge elaborately dealt with the aspect of non-obstante clause where the provision starts with “Notwithstanding anything contained”. The relevant paras are as follows:-

*“14. Section 14A(2) of the POA Act begins with non obstante clause “notwithstanding anything contained in sub-section (3) of section 378”. It would be appropriate to notice the meaning and purport of “non obstante clause”.*

*15. A non obstante clause is generally incorporated in a statute to give overriding effect to a particular section or the statute as a whole. The meaning of ‘non obstante clause’ has been explained in the Advanced Law Lexicon by P. Ramnath Aiyar as follows: -*

*“Non obstante clause. A clause in a statute which overrides all provisions of the statute. It is usually worded :*

*‘Notwithstanding anything in ...’ Need not always have effect of cutting down clear terms of enactment. Enacting part when clear can Control non obstante clause. A clause used in public and private instruments intended to preclude, in advance, any interpretation contrary to certain declared objects or purposes.”*

*16. A clause beginning with ‘notwithstanding anything contained in this Act or in some particular provision in the Act or in some particular Act or in any law for the time being in force’, is sometimes appended to a section in the beginning, with a view to give the enacting part of the section in case of conflict an overriding effect over the provision or Act mentioned in the non obstante clause. It is equivalent to saying that in spite of the provision or Act mentioned in the non obstante clause, the enactment following it will have its full operation or that the*



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*provisions embraced in the non obstante clause will not be an impediment for the operation of the enactment. Thus a non obstante clause may be used as a legislative device to modify the ambit of the provision or law mentioned in the non obstante clause or to override it in specified circumstances. (See page 364 of Principles of Statutory Interpretation by Justice G.P. Singh, 12th Edition 2010.)*

17. *The nature and object of non obstante clause came to be considered by their Lordships of the Supreme Court in the matter of Union of India and another v. G.M. Kokil and others AIR 1984 SC 1022 in which it has been held that a non obstante clause is a legislative device employed to give overriding effect to certain provisions over some contrary provisions that may be found either in the same enactment or some other enactment to avoid the operation and effect of all contrary provisions.*

18. *Similarly, in the matter of State of Bihar and others v. Bihar M.S.E.S.K.K. Mahasangh and others AIR 2005 SC 1605, the effect of non obstante clause has been explained by their Lordships of the Supreme Court in paragraph 47 of the report as under: -*

*“47. Normally the use of phrase by the Legislature in a statutory provision like 'notwithstanding anything to the contrary contained in this Act' is equivalent to saying that the Act shall be no impediment to the measure (See Law Lexicon words 'notwithstanding anything in this Act to the contrary'). Use of such expression is another way of saying that the provision in which the non obstante clause occurs usually would prevail over other provisions in the Act. Thus, non obstante clauses are not always to be regarded as repealing clauses nor as clauses which expressly or completely supersede any other provision of the law, but merely as clauses which remove all obstructions which might arise out of the provisions of any other law in the way of the operation of the principle enacting provision to which the non obstante clause is attached. (See Bipathumma and others vs. Mariam Bibi; (1966(1) Mysore Law Journal page 162 and at page 165.”*



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*19. Thus, it is quite vivid that a non obstante clause is a legislative device which is employed by the competent Legislature to give overriding effect in case of any conflict or inconsistency over the provisions of the same Act or other Acts. The purpose of non obstante clause is to provide the way for full operation of enacting provision without any impediment or obstruction of any provisions of the same Act or any other Act. The main object is to provide full operation of the Act.”*

18. We may consider the order dated 12.04.2023 passed in Criminal Appeal No.1797/2022 by the Division Bench of the High Court Chhattisgarh in the case of ***Dushyant Pandey Vs. State of Chhattisgarh*** wherein the Division Bench also considered the provisions of Section 14A(2) of the Special Act and is of the view that once the appeal is dismissed by the High Court on merit, the subsequent appeal under any change of circumstances would not be directly maintainable and remedy to accused, if any, is to file an application before the Special Court for grant of bail. The relevant para of the said order is as follows:-

*"31. Thus, we are of the considered opinion that once the appeal under Section 14A(2) of the POA Act is dismissed by this Court on merits, the subsequent appeal under any change of circumstances would not be maintainable for two reasons firstly, that by the statutory scheme of appeal enacted under Section 14A, the jurisdiction of this Court under Section 439 of the CrPC stands impliedly excluded as the power to grant bail under Section 439 of the CrPC has now only been vested to the Special Court constituted under Section 14 of the POA Act and this Court is only empowered to hear appeal under Section 14A(2) of the POA Act against refusal or grant of bail by the Special Court under the POA Act and secondly, that entertaining the subsequent appeal under change of circumstances directly would amount to review of its earlier order which is expressly provided by Section 362 of the CrPC, as the Court has also become functus officio in respect*





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*of that matter. Accordingly, we hereby answer the reference as under: -*

*“1. Once an appeal under Section 14A of the POA Act against the order passed by the Special Court rejecting the application under Section 439 of the CrPC is decided on merits or otherwise by this Court, subsequent appeal under change of circumstances would not be directly maintainable under Section 14A of the POA Act before this Court even on change of circumstances and remedy to the accused, if any, is to file an application before the Special Court for grant of bail.*

*2. Since the answer to the first stated question is in negative, it would not be expedient to answer the second stated question.”*

19. Keeping in view the aforesaid provisions relating to appeal against the order granting or refusing bail as envisaged under Section 14A(2) of the Special Act and after minute scrutiny of the above judgments, we are of the considered view that after dismissal of the appeal under Section 14A(2) of the Special Act by the High Court on any ground, the subsequent appeal before the High Court would not be maintainable. It is needless to mention that the repeat appeal for bail after dismissal of the appeal would not be maintainable even if the accused wishes to prefer the subsequent appeal before the High Court on any changed circumstances. However, since the party cannot be left remediless in the event of any changed circumstances, the aggrieved party has liberty to prefer fresh application for bail before the Special Court. If such an application is preferred, the same may be considered by the Special Court on demonstrating any change in circumstances and needless to mention that the Special Court or Exclusive Special Court may pass an



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order on its own without being influenced by the order of dismissal of the appeal by the High Court or the earlier order of grant or refusal of bail by the Special Court.

20. In this regard, we find that the view taken by the High Court of Chhattisgarh in *Dushyant Pandey (supra)* is more appropriate. Having thus opined, we find no reason to differ with the view taken by the High Court of Chhattisgarh in the said case and the judgments in the cases of *Atul Rajput, Ketan* and *Neeraj Verma (supra)*. Accordingly we hold that the finding of the learned Single Judge in its order dated 05.12.2017 passed in the case of *Ramu @ Ramlal (supra)* that the repeat appeal under Section 14A(2) of the Special Act after rejection of appeal would be maintainable against the order of grant or refusal of bail, is not the correct enunciation of law. The same is hereby overruled.

21. The question referred to us is thus answered accordingly.

22. The matter be listed before the appropriate Bench for decision in accordance with opinion rendered by us.

**(SURESH KUMAR KAIT)**  
**CHIEF JUSTICE**

**(VIVEK JAIN)**  
**JUDGE**

**C.**