

HIGH COURT OF CHHATTISGARH, BILASPUR
CRA No. 723 of 2020

1. Jayant Kumar Jaiswal S/o Prem Narayan Jaiswal Aged About 49 Years, R/o Qtr. No. M 484, Azad Chowk, Dipka Colony, Police Station Dipka, District Korba Chhattisgarh.
2. Janmjay Kumar S/o Prem Narayan Aged About 39 Years R/o Qtr. No. 1746 Pragati Nagar Dipka, Police Station Dipka, District Korba Chhattisgarh.
3. Dewanshu Jaiswal S/o Jaiyant Kumar Jaiswal Aged About 21 Years Qtr. No. M 484, Azad Chowk, Dipka Colony, Police Station Dipka, District Korba Chhattisgarh.

---- Appellants

Versus

State Of Chhattisgarh Through Police, AJAK Korba, District Korba Chhattisgarh.

---- Respondent

For Appellants : Mr. Sanjay Agrawal, Advocate.
For Respondent/State : Mr. Ghanshyam Patel, G.A.

Hon'ble Shri Justice Arvind Singh Chandel
Judgment On Board

04/11/2020

1. This appeal has been preferred under Section 14(A)(2) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 against impugned order dated 13.08.2020 passed by learned Special Judge SC/ST (Prevention of Atrocities) Act, Korba (C.G.) in BA No. 217/2020, whereby the Trial Court has rejected bail application of the Appellants preferred under Section 438 of Cr.P.C. which relates to crime number 85/2020, registered at Police Station AJAK, District Korba (C.G.) for the offence punishable under Sections 294, 323,

269, 270, 354 & 34 of the IPC and Section 3(1)(घ), 3 (1)(ङ), 3(1)(ब) (i ii), of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act and Section 3 of Epidemic Act 1897.

2. After arguing at length, learned Counsel for the Appellants submits that he wants to withdraw the appeal with regard to Appellant No. 3 namely Dewanshu Jaiswal.
3. In view of the above submission, the appeal is dismissed as withdrawn with regard to Appellant No. 3 namely Dewanshu Jaiswal.
4. According to the case of prosecution, on 06.06.2020 about 08:00 hours when the prosecutrix went a shop along with her friend at that time there was a dispute took place between the Appellant No. 3 and the prosecutrix. Allegedly, at that time Appellant no. 3 Dewanshu Jaiswal spit over the prosecutrix. It is further alleged that when the prosecutrix went to the house of Appellant no. 3 and asked him why he spit on her at that time Appellant No. 3 started physical assault with the prosecutrix. Allegedly Appellants no. 1 & 2 also came there and pushed the prosecutrix back. On 08.06.2020, the prosecutrix lodged a complaint against the Appellants. On the basis of complaint lodged by the prosecutrix, offence has been registered against the Appellants. The Appellants have preferred an application under Section 438 of Cr.P.C. before the Court of Learned Special Judge SC/ST (Prevention of Atrocities) Act, Korba, District Korba and the same has been rejected by the learned Judge vide order 13.08.2020 passed in BA No. 217/2020. Hence, this appeal.
5. Learned Counsel appearing on behalf of the Appellants submits that Appellants no. 2 & 3 are innocent and have been falsely implicated in the present case. He further submits that apart from Section 354 of the IPC, Section 3(1)(घ), 3 (1)(ङ), 3(1)(ब) (i ii), of

the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act and Section 3 of Epidemic Act, all other offence of IPC are bailable in nature. The Counsel further submits that all the allegations regarding Section 354 of the IPC and Section 3 of Epidemic Act are against Appellants no. 3 only. From the material collected by the prosecution prima facie none of the above offence can be made out against Appellants No. 1 & 2 but, ignoring these facts, the Trial Court has wrongly rejected the bail application of the Appellants. Hence, it is prayed that Appellants No. 1 & 2 may be released on bail.

6. Per contra, learned Counsel appearing on behalf of the State opposes the appeal.
7. Prosecutrix/victim is appeared through video conferencing by DLSA Korba along with Rajeshwar Diwan, local Counsel. On being asked, the prosecutrix opposes the bail application of the Appellants.
8. I have heard learned Counsel for the parties and perused the material available.
9. Considering the facts and circumstances of the case, evidence collected by the prosecution, arguments advanced by learned counsel appearing for the parties and further considering the fact that offence under Section 354 of the IPC and Section 3 of Epidemic Act are against Appellant no. 3 only. Except these Sections, all other offence of IPC are bailable in nature. Considering the above, without further commenting on other merits of the case, I am inclined to release Appellants No. 1 & 2 on bail.
10. Accordingly, the appeal is allowed with regard to Appellants No. 1 & 2. The impugned order is set-aside.

11. It is directed that Appellants No. 1 & 2 shall be released on bail on each of them executing a personal bond for a sum of Rs. 25,000/- with one local solvent surety for the like sum to the satisfaction of the Trial Court for their appearance before the said Court as and when directed.

Sd/-
(Arvind Singh Chandel)
Judge