

31.07.2023.
13.
Ct.No.28
as
(Allowed)

C.R.A. (DB) 230 of 2023

In Re:- A petition of appeal under Section 14A(2) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 in connection with Jhargram P. S. Case No.151 of 2023 dated 10.06.2023 under Sections 467/468/471/420/120B of the Indian Penal Code read with Section 3(1)(f)(g) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act.

In the matter of : Durgumahanty Babu Rao.

.... Appellant.

Mr. Soumyajit Das Mahapatra,
Ms. Madhurai Sinha.

...for the Appellant.

Mrs. Anasuya Sinha,
Mr. Pinak Kr. Mitra.

...for the State.

This is an appeal challenging order rejecting bail to the appellant.

Learned Advocate for the petitioner contends a valid sale took place between himself and the husband of the de-facto complainant. Necessary permissions were obtained. Subsequently, disputes broke out and the petitioner has been falsely implicated. He has co-operated with the investigation and further detention is not necessary. He prays for bail.

Learned Advocate for the State submits petitioner along with co-accused had procured forged permission and illegally transferred land belonging to a member of the scheduled caste community.

Inspite of service, nobody appears on behalf of the de-facto complainant.

We have considered the materials on record. The de-facto complainant and her husband are members of the scheduled caste community. Husband of the de-facto complainant entered into a sale transaction with the petitioner. It is alleged that the sale was illegal as the requisite permission was forged. Materials on record show that the sale deed was duly registered and valuable consideration flowed from the petitioner to the de-facto complainant. Belatedly, in the course of investigation husband of the de-facto complainant claimed he was in an inebriated condition and did not know the nature of transaction. Credibility of such statement requires to be assessed in the light of the contemporaneous document and attending circumstances during trial.

Prima facie sale transaction appears to be *bona fide* and is based on a registered instrument. Valuable consideration was also received by the de-facto complainant on such score.

Further more, alleged forged documents are in the control and custody of the investigating agency and further detention of the petitioner for progress of investigation is not necessary.

Hence, we are of the opinion appellant has made out a case for grant bail.

Accordingly, the appellant viz., Durgumahanty Babu Rao shall be released on bail upon furnishing a bond of Rs.10,000/- with two sureties of like amount each, one of whom must be local, to the satisfaction of the Learned Additional Sessions Judge, 1st Court, Special Court under SC &

ST Act, Jhargram subject to condition that he shall appear before the trial court on every date of hearing until further orders and shall not intimidate witnesses or tamper with evidence in any manner whatsoever.

In the event the appellant fails to appear before the Trial Court without any justifiable cause, the trial Court shall be at liberty to cancel his bail in accordance with law without further reference to this Court.

The appeal is, accordingly, allowed.

(Gaurang Kanth,J.)

(Joymalya Bagchi, J.)