IN THE HIGH COURT OF MADHYA PRADESH AT GWALIOR

BEFORE

HON'BLE SMT. JUSTICE SUNITA YADAV

ON THE 30th OF JANUARY, 2024

CRIMINAL APPEAL No. 553 of 2024

BETWEEN:-

BHUPENDRA DHAKAD S/O SHRI KULWANT SINGH, AGED ABOUT 36 YEARS, OCCUPATION: PRIVATE JOB WARD NO 64 PURANI CHHAWNI DISTRICT GWALIOR (MADHYA PRADESH)

.....APPELLANT

(MR. RAM KRISHNA PATHAK - ADVOCATE FOR THE APPELLANT)

AND

1. **THE STATE OF MADHYA PRADESH INCHARGE POLICE STATION THROUGH POLICE STATION SIROL DISTRICT GWALIOR MP (MADHYA PRADESH)**

2. **SHIKAYATKARTA THROUGH POLICE STATION SIROL, GWALIOR GWALIOR (MADHYA PRADESH)**

.....RESPONDENTS

(MR. A.P.S. TOMAR - PUBLIC PROSECUTOR FOR RESPONDENT NO. 1 - STATE AND MR. ASHA RAM SHIVHARE - ADVOCATE FOR RESPONDENT NO. 2 - COMPLAINANT)

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

ORDER

This is the eighth criminal appeal filed by the appellant under Section 14-A of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act assailing the order dated 08.2.2022 passed by Special Judge (Atrocities), Gwalior (M.P.) in Bail Application No.344 of 2022, whereby regular bail application of the appellant relating to FIR No. 219 of 2021 registered at Police

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Station Sirol, District Gwalior (M.P.) for the offence under Sections 302 and 201 of IPC, Section 3(2)(v) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act has been rejected. Sixth criminal appeal was dismissed as withdrawn by order dated 22.6.2023 passed in CRA No. 5860 of 2023 with liberty to revive the prayer after all the material witnesses are examined.

Learned counsel for the appellant argued that the appellant is innocent and has falsely been implicated in this case. Prosecution witnesses PW-1 Deepak, PW-2 Ritesh, PW-3 Vijay (father of the deceased), PW-4 Vicky Jatav (brother of the deceased) and PW-5 Anita (mother of the deceased) have already been examined, however, they have not supported the case of the prosecution and turned hostile. It is further argued that DNA report is not corroborative. From the statement of PW-3 Vijay Singh, father of the deceased, at para 18, it is apparent that the room where dead body was found was having three doors and CCTv which was installed in the nearby alley was not covering all three doors. Under these circumstances, prosecution story becomes doubtful. Further argument is that appellant is in custody since 24.9.2021. He is the permanent resident of District Gwalior (M.P.) and there is no possibility of his absconsion or tampering with the prosecution evidence. Hence, he prays for grant of bail to the appellant.

On the other hand, learned State counsel as well as learned counsel for the complainant opposed the appeal citing the criminal history of the appellant and prayed for its dismissal.

Considering the facts and circumstances of the case, without commenting upon the merits of the case, this appeal stands allowed and it is directed that the appellant be released on bail on furnishing a personal bond in

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the sum of **Rs. 1,00,000/- (Rs. One Lakh only)** with one solvent surety in the like amount to the satisfaction of the concerned trial Court/Committal Court.

This order will remain operative subject to compliance of the following conditions by the appellant:-

1. The appellant will comply with all the terms and conditions of the bond executed by him;

2. The appellant will cooperate in the investigation/trial, as the case may be;

3. The appellant will not indulge himself in extending inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him/her from disclosing such facts to the Court or to the Police Officer, as the case may be;

4. The appellant shall not commit an offence similar to the offence of which he is accused;

5. The appellant will not seek unnecessary adjournments during the trial;

6. The appellant will not leave India without previous permission of the trial Court/Investigating Officer, as the case may be; and

7. The appellant shall mark his presence before the SHO of the concerned police station in the first week of every month till conclusion of trial.

A copy of this order be sent to the Court concerned for compliance.

C.C. as per rules.

(SUNITA YADAV)
JUDGE

AKS

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