IN THE HIGH COURT OF MADHYA PRADESH AT GWALIOR

BEFORE

HON'BLE SMT. JUSTICE SUNITA YADAV

ON THE 5th OF FEBRUARY, 2024

CRIMINAL APPEAL No. 1464 of 2024

BETWEEN:-

KALLU @ KALYAN KUSHWAHA S/O SHRI GULAB SINGH KUSHWAHA, AGED 32 YEARS, OCCUPATION: AUTO DRIVER, R/O VILLAGE PARICHA, PS POHARI DISTRICT SHIVPURI (MADHYA PRADESH)

.....APPELLANT

(BY SHRI ROMESH PRATAP SINGH - ADVOCATE)

AND

1. **THE STATE OF MADHYA PRADESH THROUGH POLICE STATION POHARI DISTRICT SHIVPURI (MADHYA PRADESH)**

2. **PROSECUTRIX THROUGH POLICE STATION POHARI, DISTRICT SHIVPURI (MADHYA PRADESH)**

.....RESPONDENT

(BY SHRI ROHIT SHARIVASTAVA - PANEL LAWYER)

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

ORDER

This is first criminal appeal under Section 14 (A) (2) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act (hereinafter referred to as "SC/ST Act") assails the order dated 19.1.2024 passed by Special Judge, SC/ST (POA) Act, Shivpuri (M.P.) whereby, application preferred by the appellant herein under Section 439 of Cr.P.C. relating to Crime No. 353 of 2023 registered at Police Station Pohari, District Shivpuri (M.P.) for

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the offence under Sections 376, 450, 506 of IPC and Section 3 (1) (w) (ii), 3 (2) (v) of SCST Act has been rejected.

Learned counsel for the appellant argued that appellant is innocent and has been falsely implicated. The entire prosecution story is highly improbable because the alleged incident occurred inside the house of prosecutrix where her father-in-law and her children were also sleeping. However, there is no evidence that she raised alarm at the time of incident. The incident is said to be occurred on 15.12.2023, however F.I.R. is lodged after delay of two days i.e. 17.12.2023 for which no plausible explanation is given. The case is not supported by medical evidence. The prosecutrix is major and having two children. Under these circumstances, the entire prosecution story becomes doubtful. The appellant is in custody since 18.12.2023 and he is having no criminal history. The appellant is the resident of District Shivpuri (M.P.). Conclusion of trial is likely to take time and there is no likelihood of his absconsion, if released on bail. Hence, he prays for grant of bail to the appellant.

Per contra, learned Panel Lawyer for the State has opposed the appeal and prayed for its rejection.

Considering the facts and circumstances of the case, but 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 the sum of **Rs.25,000/- (Rs. Twenty Five Thousand 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

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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; and

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

Learned State counsel is directed to send an e-copy of this order to the Station House Officer of the concerned Police Station for information and necessary action.

E- copy of this order be sent to the trial Court concerned for compliance, if possible, by the office of this Court.

Certified copy as per rules.

(SUNITA YADAV)
JUDGE

AK/-

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