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

**BEFORE
HON'BLE SMT. JUSTICE SUNITA YADAV**

ON THE 4th OF JANUARY, 2024

CRIMINAL APPEAL No. 7952 of 2023

BETWEEN:-

VIKKI PANDIT @ VIKAS SHARMA S/O SHRI SANJAY SHARMA, AGED ABOUT 24 YEARS, OCCUPATION: PRIVATE WORK ASHOK COLONY JEETU STD KE PICHHE THATIPUR , GWALIOR (MADHYA PRADESH)

.....APPELLANT

(BY MR. SUSHIL GOSWAMI - ADVOCATE)

AND

- 1. THE STATE OF MADHYA PRADESH INCHARGE POLICE STATION THROUGH POLICE STATION THATIPUR , GWALIOR (MADHYA PRADESH)**
- 2. JASWANT JATAV S/O SHRI BHUMJIT JATAV, AGED ABOUT 25 YEARS, ASHOK COLONY, PS THATIPUR DISTRICT GWALIOR (MADHYA PRADESH)**

.....RESPONDENTS

(MR. DINESH SAVITA - PUBLIC PROSECUTOR FOR RESPONDENT NO. 1 - STATE AND MR. JITENDRA SHARMA - ADVOCATE FOR RESPONDENT NO. 2 - COMPLAINANT)

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

ORDER

This is the fourth criminal appeal filed by the appellant under Section 14-A (2) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act against the order dated 06.7.2021 passed in Bail Application No.329/2021 by Second Additional Sessions Judge, Gwalior, whereby regular bail application, relating to FIR No.219 of 2021 registered at Police Station

Thatipur, District Gwalior (M.P.) for the offence under Sections 120-B, 147, 302 and 307 of IPC, Section 3(2)(V-a) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act and Section 25/27 of Arms Act, of the appellant has been rejected. First and third criminal appeal were dismissed as withdrawn whereas second criminal appeal was dismissed on merits on 18.10.2022.

Learned counsel for the appellant argued that appellant is innocent and has been falsely implicated. He was not present on the spot at the time of incident which is evident from the CCTV footage. No recovery has been made from the present appellant. It is further argued that prosecution witnesses are not turning up before the trial Court due to which in-ordinate delay has occurred in the trial. Further argument is that appellant is in custody since 01.4.2021 i.e. two years and nine months. 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, prayed for grant of bail to the appellant.

On the other hand, learned State counsel as well as learned counsel for the complainant vehemently opposed the appeal and argued that four witnesses who have been examined before the trial Court have supported the case of the prosecution. Total six witnesses have been examined in this case which shows that there is no inordinate delay in the trial. It is further argued that second criminal appeal for grant of bail to the appellant has already been dismissed on merits and thereafter, there is no change in circumstance under which present criminal appeal can be allowed. Hence, prayed to reject the appeal.

Heard learned counsel for the rival parties and perused the available record.

After dismissal of second criminal appeal, no change in circumstance could be pointed out by the learned counsel for the appellant so that the view taken on 18.10.2022 may be changed.

Consequently, this fourth criminal appeal under Section 14-A (2) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act filed by the appellant is hereby dismissed.

(SUNITA YADAV)
JUDGE

AKS

