IN THE HIGH COURT OF MADHYA PRADESH
AT JABALPUR

BEFORE

HON'BLE SHRI JUSTICE DINESH KUMAR PALIWAL

ON THE 2nd OF FEBRUARY, 2024

CRIMINAL APPEAL No. 858 of 2024

BETWEEN:-

SONU PAL S/O SHRI BHAGONI PAL, AGED ABOUT 29 YEARS, OCCUPATION: FARMER R/O VILLAGE VELAI P.S. NARIYIAWALI DISTRICT SAGAR (MADHYA PRADESH)

.....APPELLANT

(BY SHRI MANISH KUMAR TIWARI - ADVOCATE)

AND

1. **THE STATE OF MADHYA PRADESH THROUGH POLICE STATION NARIYAWALI DISTRICT SAGAR (MADHYA PRADESH)**

2. **SHAILENDRA GANDARY S/O SHRI DEVENDRA GANDHARV, AGED ABOUT 20 YEARS, OCCUPATION: FARMER R/O VILLAGE HAWLA P.S. NARYAWALI CRIME NO. 0382/2022 P.S. NARYAWALI DISTRICT SAGAR (MADHYA PRADESH)**

.....RESPONDENTS

(BY SHRI NISHANT YADAV - PANEL LAWYER)

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

ORDER

This fifth appeal under Section 14-A of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 has

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been filed assailing the order dated 06.1.2024 passed by learned Special Judge, SC/ST (Prevention of Atrocities) Act, District Sagar (M.P.), whereby bail application under Section 439 of Cr.P.C. filed on behalf of appellant/accused has been dismissed.

Appellant's first,second and fourth criminal appeals were dismissed as withdrawn and not pressed vide orders dated 15.02.2023, 01.03.2023 and 03.01.2024 passed in Cr.A.Nos.6604/2023, 2835/2023 and 14714/2023 respectively while his third criminal appeal was dismissed on merits vide order dated 08.08.2023 passed in Cr.A.No.8167/2023.

2 . Appellant has been arrested in connection with F.I.R. No.382/2022 dated 4.11.2022 registered at Police Station - Nariyawali, District Sagar (M.P.) for commission of offence under Sections 294, 307 of IPC, Sections 3(1)(s), 3(r) and 3(2)(v) of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989. Appellant is in detention since 1.12.2022.

3. As per the prosecution story, on 3.11.2022, at around 10 P.M. Shailendra had gone for watering the field, when he did not return in the morning, his brother went for his search. On the way, he was informed by Balla Raikwar that Shailendra is lying near hillock, when he reached there, he found multiple injuries on Shailendra's forehead, lips. His brother informed that Sonu Pal had abused him and caused injuries by means of axe on his person. Injured was taken

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to Medical College, Sagar and from there he was taken to Nagpur. FIR was registered.

4. Learned counsel for the appellant has prayed for bail on the ground of slow progress of the trial as prosecution witnesses did not turn-up on 3-4 occasions.

5. On the other hand, learned counsel for the State has opposed grant of bail to the appellant/accused and has submitted that appellant's first, second and fourth criminal appeals have been dismissed as withdrawn and his third criminal appeal was dismissed on merits vide order dated 08.08.2023 passed in Cr.A.No.8167/2023.

6. In this case appellant is facing trial for attempting to commit murder of injured Shailendra whom he had taken to hillock. Accused has caused injuries by means of an axe on the person of injured and injuries were found grievous and life threatening. Appellant's third criminal appeal has already been dismissed on merits. As far delay in trial is concerned, on perusal of order sheets it is apparent that injured witnesses Jitendra and Shailendra had turned-up for tendering their evidence but for the reasons best known to the trial court, their evidence was not recorded. Now bailable warrants are being issued to procure their attendance but on perusal of order sheet dated 23.08.2023, it is apparent that no bailable warrants were issued against them.

7. In view of aforesaid, it cannot be said that there is any

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delay in trial. Only 07 months ago trial has commenced. Therefore, I find no reason to release the appellant on bail. Consequently, this fifth criminal appeal under Section 14-A of SC/ST (Prevention of Atrocities) Act, stands **dismissed.**

(DINESH KUMAR PALIWAL)
JUDGE

MKL

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