

**(2019) 10 RAJ CK 0021**  
**Rajasthan High Court**  
**Case No:** Criminal Appeal No. 1255 Of 2019

Mahendra Kumar Sharma

APPELLANT

Vs

State

RESPONDENT

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**Date of Decision:** Oct. 4, 2019

**Acts Referred:**

- Scheduled Castes And Scheduled Tribes (Prevention Of Atrocities) Act, 1989 - Section 3(1)(W), 3(2)(Va), 14A(2)
- Indian Penal Code, 1860 - Section 342, 366, 376
- Code Of Criminal Procedure, 1973 - Section 161, 164

**Hon'ble Judges:** Vijay Bishnoi, J

**Bench:** Single Bench

**Advocate:** Sajjan Singh Rathore, Mohd. Jawed Gauri

**Final Decision:** Allowed

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**Judgement**

This criminal appeal under Section 14A(2) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 (hereinafter to be referred as 'the SC/ST Act') has been filed on behalf of the appellant being aggrieved with the order dated 31.8.2019 passed by the learned Special Judge, SC/ST (Prevention of Atrocities) Act Cases, Bahilwara (hereinafter to be referred as 'trial court') whereby the trial court has dismissed the bail application filed on behalf of the appellant.

The appellant has been arrested in FIR No.93/2019 of P.S. Bigod, District Bhilwara, for the offences punishable under Sections 366, 342, 376 I.P.C. and Section 3(1)(W), 3(2)(Va) of SC/ST Act.

Learned counsel for the appellant has submitted that allegations of kidnapping and sexual assault levelled against the appellant are false. It is argued that the prosecutrix was major at the time of incident and she eloped with the appellant as per her own free will and lived with him at Indore for several days. It is also submitted that latter on the prosecutrix has levelled allegation of sexual assault against the appellant under the pressure of her family members.

Learned Public Prosecutor has opposed the prayer made on behalf of the appellant in this criminal appeal.

Heard learned counsel for the appellant as well as learned Public Prosecutor and also perused the material on record.

Having regard to the totality of the facts and circumstances of the case and taking into consideration the fact that the police during the course of

investigation have concluded that at the time of incident the prosecutrix was major and it is also noticed that initially the prosecutrix in her statements

recorded under Section 161 Cr.P.C. on 8.6.2019 has specifically stated that she went with the petitioner as per her own free will and stated that the

petitioner did nothing wrong with her, however, later on, she, in her supplementary statements and statements recorded under Section 164 Cr.P.C., has

levelled allegation of sexual assault against the appellant, without expressing any opinion on the merits of the case, I deem it just and proper to allow

the appeal filed by the accused appellant under Section 14-A(2) of SC/ST Act.

Accordingly, this criminal appeal filed under Section 14-A(2) of SC/ST Act is allowed and the order dated 31.8.2019 passed by the learned Special

Judge, SC/ST (Prevention of Atrocities) Act Cases, Bahilwara is set aside. It is directed that appellant - Mahendra Kumar Sharma S/o Shri

Satyanarayan Sharma shall be released on bail in connection with FIR No.93/2019 of P.S. Bigod, District Bhilwara provided he executes a personal

bond in a sum of Rs.50,000/- with two sound and solvent sureties of Rs.25,000/-each to the satisfaction of learned trial court for his appearance before

that court on each and every date of hearing and whenever called upon to do so till the completion of the trial.