
(2023) 04 CHH CK 0023

Chhattisgarh High Court

Case No: Criminal Appeal No. 454 Of 2023

Sumit Nayak Vs State
Of Chhattisgarh

Vs

APPELLANT

RESPONDENT

Date of Decision: April 13, 2023

Acts Referred:

- Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 - Section 14A(2), 18
- Indian Penal Code, 1860 - Section 34, 294, 323, 506
- Code Of Criminal Procedure, 1973 - Section 438

Hon'ble Judges: Deepak Kumar Tiwari, J

Bench: Single Bench

Advocate: Manoj Paranjpe, Subhank Tiwari, Avinash K. Mishra

Final Decision: Allowed

Judgement

1. Heard.

2. The appellant has preferred this appeal under Section 14-A (2) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act,

1989 (in short "the S.C./S.T. Act"), for grant of anticipatory bail, since he is apprehending his arrest in connection with Crime No.394/2022

registered at Police Station Chakarbhatha, District Bilaspur (CG) for the offence under Sections 294, 323, 506 read with Section 34 of the IPC

and Section 3(1)(), 3(1)() & 3(1)() of the S.C./S.T. Act.

3. Prosecution case, in brief, is that complainant Tikaram Sonwani lodged an FIR on 5.11.2022 at Police Station Chakarbhatha alleging that on

1.11.2022, behind the High Court residential Colony, when he was doing some personal work, at that time, Mantu Tiwari, Manish Dixit and

others, asked Ramnivas Baghel and Narsingh Miri, who are known to the complainant, as to why they are smuggling the cow beef and abused

them in a filthy language. The said persons also extended threat to kill Ramnivas Baghel and Narsingh Miri and thereafter beat them by hands, fists

and belt, as a result of which, they sustained injuries on their bodies and further, the victims were implicated in a false case. During such incident,

the accused persons also half naked the above persons. The incident was witnessed by the complainant, one Smt. Baby Miri and other villagers. It

was alleged that the the accused persons committed such incident knowing that the injured persons were the members of Scheduled Caste or

Scheduled Tribe Community. The above incident was videographed by the accused persons and the same was made viral in the social media.

4. Learned counsel for the appellant would submit that the present appellant and others have caught Narsingh Rohidas and Ramnivas Mehar

behind the High Court Colony, as they were carrying cow beef in a bag, which they were transporting in a vehicle - TVS XL bearing registration

No. CG 10 BD 4550, therefore, the present appellant, Amit Dixit, Manish Upadhyaya and Rajesh Sharma and others apprehended and brought

them to Police Station "Chakarbhatta" and lodged FIR No.386/2022 on 1.11.2022. Thereafter, as a counter blast the present FIR has been

lodged falsely against them. He further submits that the incident did not take place on account of the victims being the members of Scheduled Caste

or Scheduled Tribe Community and hence, the bar under Section 18 of the SC./S.T. Act would not be attracted in the present case. He places

reliance on the judgments rendered by the Hon'ble Supreme in the matters of Dr. Subhash Kashinath Mahajan Vs. The State of Maharashtra

and another, (2018) 6 SCC 454 and Prithvi Raj Chouhan Vs. Union of India, (2020) 4 SCC 727. Therefore, considering all the aspects of the

matter, learned counsel for the appellant prays to extend the benefit of Section 438 of the Cr.P.C. to the appellant

5. On the other hand, learned counsel for the State opposes the prayer for bail. He submits that out of the six accused persons, five have been

released on bail. He further submits that the appellant has not been named in the FIR.

6. Having considered the submissions of learned counsel for the parties and also considering the backdrop of the case that the incident took place

with regard to possession of the cow beef and transporting the same in a vehicle and further considering that the bar under Section 18 of the

Atrocities Act would not be attracted in the present case and also that initially, the Police has not registered an offence under the Atrocities Act and

subsequently, the said section has been added and lastly considering the totality of the circumstances, I am of the opinion that the present is a fit

case to extend the benefit of Section 438 of the Cr.P.C. to the appellant.

7. Accordingly, the appeal is allowed and it is directed that in the event of arrest of the appellant, he shall be released on bail on his furnishing a

personal bond in the sum of Rs.25,000/- with one surety in the like sum to the satisfaction of the arresting officer on the following conditions:-

(a) he shall make himself available for interrogation by the concerned police officer as and when so required,

(b) he shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade

him from disclosing such fact to the Court or to any police officer,

(c) he shall not act in any manner which will be prejudicial to fair and expeditious trial,

(d) after filing of the charge sheet, he shall appear before the trial Court on each and every date given to him by the said Court till disposal of the

trial,

(e) he shall not involve himself in any offence of similar nature in future.

Certified copy as per rules.