
(2023) 11 RAJ CK 0028

Rajasthan High Court

Case No: Criminal Appeal (SB) No. 2241 Of 2023

Sanjeev Kumar

APPELLANT

Vs

State Of Rajasthan And
Others

RESPONDENT

Date of Decision: Nov. 2, 2023

Acts Referred:

- Scheduled Caste And Scheduled Tribe (Prevention Of Atrocities) Act, 1989 - Section 3(1)(W)(I), 3(2)(V), 3(2)(Va), 14A(2)
- Indian Penal Code, 1860 - Section 120B, 313, 376(2)(N), 450
- Protection of Children from Sexual Offences Act, 2012 - Section 6, 51

Citation: (2023) 11 RAJ CK 0028

Hon'ble Judges: Kuldeep Mathur, J

Bench: Single Bench

Advocate: Hamir Singh Sidhu, Arun Kumar, SR Godara

Final Decision: Allowed

Judgement

Kuldeep Mathur, J

The instant appeal under Section 14A(2) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act has been filed by the appellant

against the order dated 12.10.2023 passed by learned Special Judge, Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act Cases,

Sriganganagar in Cr.Misc. Bail Application No.330/2023, whereby the bail application filed by the appellant, who has been arrested in connection with

FIR No.143/2023 registered at Women Police Station Sriganganagar, for offences under Sections 376(2)(N), 313, 450, 120-B of IPC, Sections 51, 6 of

POCSO Act and Sections 3(1)(w) (i), 3(2)(v) and 3(2)(va) of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, has been rejected.

Learned counsel for the appellant submitted that the appellant who is aged about 27 years has been falsely implicated in a criminal case by the prosecutrix who is a mature girl. Learned counsel submitted that the prosecutrix was having consensual relationship with the present appellant.

Drawing attention of the Court towards various documents, learned counsel submitted that the prosecutrix solemnized marriage with the appellant on

6.10.2022 at Shiv Mandir, Near Punjab National Bank. Attention of the Court was further drawn towards an order dated 21.10.2022 passed by

coordinate Bench of this Court in CRLMP No.7100/2022 wherein the prosecutrix and the appellant sought protection from the family members of the

prosecutrix as they were having apprehension of threat to their life and liberty. Learned counsel submitted that the prosecutrix as a matter of fact is

wife of the present appellant, who on their relations turning strained, has falsely implicated the appellant in a false criminal case.

Learned counsel submitted that the appellant is in judicial custody and the trial of the case will take sufficiently long time, therefore, the benefit of bail

should be granted to the accused-appellant.

Per contra, learned Public Prosecutor and learned counsel for the complainant have vehemently opposed the bail application. However, they were not

in a position to refute the fact that the appellant and the prosecutrix are major and have solemnized marriage with each other. They are also not in a

position to refute the fact that the appellant and the prosecutrix had jointly filed a Cr. Misc. Petition (supra) before this Court seeking protection from

the family members of the prosecutrix having apprehension of threat.

Heard learned counsel for the appellant, learned Public Prosecutor and learned counsel for the complainant. Perused the material available on record.

Having considered the rival submissions, facts and circumstances of the case, this Court prima facie finds that as per the FIR, the prosecutrix was

subjected to sexual assault by the petitioner appellant for the first time in the year 2018 and the FIR has been lodged after a lapse of five and a half

years. This Court also prima facie finds that the prosecutrix solemnized marriage with the appellant and by way of filing a Cr. Misc. Petition (supra)

before this Court, she sought protection for herself and for the appellant from her family members as they apprehended threat to their life and liberty.

This Court also prima facie finds that no recovery is due to be made from the appellant. Thus, without expressing any opinion on merits/demerits of

the case, this Court is of the opinion that the appellant deserves to be enlarged on bail.

Accordingly, the appeal under Section 14A(2) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act is allowed. The order

dated 12.10.2023 passed by learned Special Judge, Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act Cases, Sriganaganagar is set

aside and it is ordered that the accused-appellant- Sanjeev Kumar S/o Sh. Jagdish Kumar shall be enlarged on bail in connection with FIR

No.143/2023 registered at Women Police Station Sriganaganagar, provided he furnishes a personal bond in the sum of Rs.50,000/-with two sureties of

Rs.25,000/- each to the satisfaction of the learned trial Judge for his appearance before the court concerned on all the dates of hearing as and when

called upon to so.