

(2024) 03 RAJ CK 0022

Rajasthan High Court

Case No: Criminal Appeal (SB) No. 674 Of 2023

Jallaludin @ Aslam

APPELLANT

Vs

State Of Rajasthan And Others

RESPONDENT

Date of Decision: March 6, 2024

Acts Referred:

- Scheduled Caste And Scheduled Tribe (Prevention Of Atrocities) Act, 1989 - Section 3 (1)(w)(ii), 3(2) (v), 3(2)(va), 14(A)(2)
- Indian Penal Code, 1860 - Section 376, 384
- Code Of Criminal Procedure, 1973 - Section 439

Hon'ble Judges: Farjand Ali, J

Bench: Single Bench

Advocate: N.K. Gurjar, S.K. Bhati

Final Decision: Allowed

Judgement

Farjand Ali, J

1. The instant appeal has been filed under Section 14-A(2) SC/ ST (Prevention of Atrocities) Act on behalf of the appellant, who is in custody in connection with FIR No.53/2023, Police Station Asind District Bhilwara for the offences under Sections 384 & 376 of the IPC and Sections 3 (1)(w)(ii), 3(2)

(v) & 3(2)(va) of the SC/ST (Prevention of Atrocities) Act, being aggrieved by the order dated 08.05.2023, whereby the application under Section 439 of the Cr.P.C. has been rejected by the trial Court.

2. It is submitted by learned counsel for the appellant that the appellant has falsely been implicated in the present case and has nothing to do with the alleged offence. Expeditious culmination of trial is not a seeming fate and no fruitful purpose would be served by keeping the appellant behind the bars. He, therefore, prays that benefit of bail may be granted to the appellant.

3. Per contra, learned learned Public Prosecutor has opposed the bail application.

4. Heard learned counsel for the appellant, learned Public Prosecutor and perused the material available on record.

5. Perusal of the record revealing that there is a delay of six days in lodging the FIR and no explanation whatsoever has been furnished in this regard. Thus, plea of defence has substance that the possibility of embellishment and false implication is not ruled out. In a very weird circumstance, the victim left the company of her husband in the midnight at around 2:00 a.m. persuading this Court to concur with the submission of the

appellant that she was a consenting party though it is only a tentative opinion of this Court, final adjudication shall be done by the trial Court after taking into account entire evidence on record. Looking to the fact that appellant is behind the bars and investigation has been completed and trial would take a long time to conclude, this Court is of the opinion that the appellant deserves to be enlarged on bail.

6. Consequently, the instant appeal is allowed. The impugned order dated 08.05.2023 passed by the Special Judge, SC/ST (Prevention of Atrocities) Cases, Bhilwara in Criminal Misc. Bail Application No.115/2023 is set aside. It is ordered that the accused-appellant, named in the cause title, arrested in connection with aforesaid FIR, shall be released on bail, if not wanted in any other case, provided he furnishes a personal bond of Rs. 50,000/- and two sureties of Rs. 25,000/- each to the satisfaction of the learned trial Court with the stipulation to appear before that Court on all dates of hearing and as and when called upon to do so.