

THE HIGH COURT OF MADHYA PRADESH

Cr.A. No.8143/2018
(Anas vs. The State of Madhya Pradesh)

Indore, Dated: 31/10/2018

Shri Ajay Bagadiya, learned counsel for the appellant.

Shri Pankaj Wadhwani, learned Public Prosecutor for the respondent/State.

Heard on I.A. No.7764/2018, an application for condonation of delay. The appeal is barred by 28 days.

For the reasons assigned in the application, which is supported by an affidavit, I.A. No.7764/2018 is allowed. Delay of 28 days in filing this appeal is hereby condoned.

Heard on the question of admission.

Appellant has preferred this repeat (second) appeal under Section 14-A(2) of the SC/ST (PA) Act, 1989, feeling aggrieved with the order dated 17/05/2018, rendered by Special Judge (SC/ST), Mandleshwar District Khargone, whereby the prayer for regular bail has been declined. First appeal has been dismissed as withdrawn by this Court vide order dated 25/06/2018, passed in Cr.A. No.4156/2018.

Appellant has been arrested on 05/05/2018 in connection with crime No.238/2018, registered at Police-Station AJAKS, District Khargone, in relation to offence punishable under Sections 294, 323, 342, 364, 365, 368, 147, 149 of IPC read with Sections 3(2)(v), 3(2)(v)(a) and 3(1)(r)(s) of The Scheduled Castes And The Scheduled Tribes (Prevention of Atrocities) 1989.

As per prosecution story, on 06/05/2018, when complainant was coming back from Sendhwa to Khargone, victim Afreen requested to drop her at her uncle's house situated at Sukhpuri, Khargone. On reaching Khargone, complainant went to take his motor cycle, however, after coming back he did not found the victim on the spot, therefore, complainant left the spot. When he reached Pakiza showroom, suddenly 8 unknown persons

came on motor cycle and took away the complainant to Jamatkhana and assaulted him.

Learned counsel for the appellant has submitted that the statement of victim Afreen has already been recorded before the trial Court in which she has neither made any allegation against the appellant regarding kidnapping or abduction nor she has identified the appellant. Her father has also not supported the prosecution case and both the witnesses have turned hostile. As per M.L.C report, injury caused to complainant-Devku were found to be simple in nature. Under these circumstances counsel prayed for grant of regular bail of appellants.

Learned counsel for the State submits that no sufficient ground is made out for releasing the appellant on bail, hence the application filed by the appellant be dismissed.

Considering the facts and circumstance of the case and the arguments advanced by learned counsel for the parties and on perusing the statements of P.W.1 and P.W.2, but without expressing any opinion on the merits of the case, this Court is of the view that the appeal filed by the appellant deserves to be accepted. Consequently, setting aside the impugned order, the appeal is hereby allowed. It is directed that the appellant shall be released on bail on execution of personal bond in the sum of **Rs.50,000/- (Rupees fifty thousand only)** with a solvent surety in the like amount to the satisfaction of the learned trial Court for his regular presence during trial and shall also abide by the conditions enumerated under Section 437 (3) of Cr.P.C.

This order shall be effective till the end of the trial, however, in case of bail jump, it shall become ineffective.

Certified copy as per Rules.

(S. K. AWASTHI)
JUDGE

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