

**HIGH COURT OF JUDICATURE FOR RAJASTHAN AT
JODHPUR**

S.B. Criminal Appeal No. 1506/2019

Kishanpuri S/o Sh. Dhagalpuri, Aged About 35 Years, B/c Goshwami, R/o Near Hanuman Ji Mandir, Patus, Police Station Jaitaran District Pali (Raj.) (Petitioner Lodged In District Jail, Pali)

----Appellant

Versus

State, Through Pp

----Respondent

For Appellant(s) : Mr. Kailash Giri, petitioner's brother-in-law present in person

For Respondent(s) : Mr. Mohd. Javed Gauri, PP

HON'BLE MR. JUSTICE VIJAY BISHNOI

Judgment / Order

29/11/2019

This criminal appeal under Section 14-A(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 24.10.2019 passed by the Special Judge, SC/ST (Prevention of Atrocities) Cases, Pali (hereinafter to be referred as 'trial court') in Criminal Misc. Case No.680/2019 whereby, the trial court has dismissed the bail application filed on behalf of the appellant.

The appellant has been arrested in FIR No.270/2019 of Police Station Jaitaran, Distt. Pali for the offences punishable under Sections 366, 376(D) IPC and Section 3(2)(V) of the SC/ST Act.

Mr. Kailash Giri, appellant's brother-in-law, present in person has submitted that the appellant has falsely been implicated in this case. It is further submitted that the prosecutrix is major and

she eloped with co-accused Bagda Ram on 29.4.2019 and lived with him at various places. It is submitted that a D.B. Habeas Corpus Petition No.136/2019 was preferred on behalf of the father of the prosecutrix, in which, the police produced the prosecutrix before this Court on 10.7.2019 wherein, the prosecutrix gave statements that she went with Bagda Ram on her own free will and volition and he did not misbehave with her nor did he commit any kind of sexual assault upon her and she expressed her desire to go with her parents. It is further submitted that prior to that, the police recorded the statements of the prosecutrix on 9.7.2019 wherein, she has specifically stated that she went with Bagda Ram on her own free will and he did not commit anything wrong with her, however later on, her statements were recorded under Section 164 Cr.P.C. on 20.7.2019 wherein, for the first time, she has levelled allegation of sexual assault against the appellant and Badga Ram. It is further submitted that as a matter of fact, the appellant was not involved in commission of any crime and he has falsely been implicated in this case only because he is known to co-accused Bagda Ram.

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 after going through the charge-sheet, without expressing any opinion on the merits of the case, I deem it just and proper to allow the appeal filed by the 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 24.10.2019 passed by the trial court in Criminal Misc. Case No.680/2019 is set aside and it is directed that appellant – Kishanpuri S/o Sh. Dhagalpuri shall be released on bail in connection with FIR No.270/2019 of Police Station Jaitaran, Distt. Pali provided he executes a personal bond in the 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.

(VIJAY BISHNOI),J

12-msrathore/-



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