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**IN THE HIGH COURT OF MADHYA PRADESH
AT JABALPUR
BEFORE
HON'BLE SHRI JUSTICE VISHAL DHAGAT
ON THE 22nd OF NOVEMBER, 2023
CRIMINAL APPEAL No. 14156 of 2023**

BETWEEN:-

1. BRAJESH PANDEY

2. DEEPESH PANDEY

.....APPELLANT

(BY SHRI MANAN AGRAWAL, ADVOCATE)

AND

1. THE STATE OF MADHYA PRADESH THROUGH
POLICE STATION DEOLOND R/O DISTRICT
SHAHDOL (MADHYA PRADESH)

2. PYARELAL PRAJAPATI

.....RESPONDENTS

(BY SHRI D. K. PAROHA, GOVT. ADVOCATE)

.....
*This appeal coming on for admission this day, the court passed the
following:*

ORDER

This is first criminal appeal filed by appellants under Section 14-A(2) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act,

1989, against the order of rejection of their bail by the trial Court for grant of anticipatory bail to the appellants who apprehend their arrest in connection of FIR No.204/2023, registered at Police Station Deolond, District Shahdol (M.P) for the offences punishable under Sections 353, 294, 506, 34 and 184 of Indian Penal Code and Sections 3(1), 3(1)(s), 3(2)(va) of SC/ST Act.

2. Learned counsel appearing for appellants submitted that applicants are innocent and have falsely been implicated in the case. It is submitted that they had not abused the complainant nor had they disrupted the government work. It is submitted that complaint was lodged after a delay of seven days as an after thought. In these circumstances, prayer is made for release of appellants on anticipatory bail.

3. Learned Government Advocate appearing for the State opposed the application for grant of anticipatory bail. It is submitted that notice under section 41-A of CrPC has been issued to appellants, therefore, there is no apprehension of arrest of appellants and police does not want to arrest them. In these circumstances they may not be released on anticipatory bail.

4. Heard the learned counsel for the parties.

5. Appellants were given notice under section 41-A of Cr.P.C by the Investigating Officer and to co-operate in investigation of the case. Since Investigating Officer does not want to arrest the appellants, therefore, there is no requirement for filing this appeal for anticipatory bail. Supreme Court in case of *Arnesh Kumar Vs. State of Bihar reported in (2014) 8 SCC 273*. has given following directions :

"11. Our endeavour in this judgment is to ensure that police officers do not arrest accused unnecessarily and Magistrate do not authorise detention casually and mechanically. In order to

ensure what we have observed above, we give the following direction:

11.1. All the State Governments to instruct its police officers not to automatically arrest when a case under Section 498-A of the IPC is registered but to satisfy themselves about the necessity for arrest under the parameters laid down above flowing from Section 41, Cr.PC;

11.2. All police officers be provided with a check list containing specified sub- clauses under Section 41(1)(b)(ii);

11.3. The police officer shall forward the check list duly filed and furnish the reasons and materials which necessitated the arrest, while forwarding/producing the accused before the Magistrate for further detention;

11.4. The Magistrate while authorising detention of the accused shall peruse the report furnished by the police officer in terms aforesaid and only after recording its satisfaction, the Magistrate will authorise detention;

11.5. The decision not to arrest an accused, be forwarded to the Magistrate within two weeks from the date of the institution of the case with a copy to the Magistrate which may be extended by the Superintendent of police of the district for the reasons to be recorded in writing;

11.6. Notice of appearance in terms of Section 41A of Cr.PC be served on the accused within two weeks from the date of institution of the case, which may be extended by the Superintendent of Police of the District for the reasons to be recorded in writing;

11.7. Failure to comply with the directions aforesaid shall apart from rendering the police officers concerned liable for departmental action, they shall also be liable to be punished

for contempt of court to be instituted before High Court having territorial jurisdiction.

11.8. Authorising detention without recording reasons as aforesaid by the judicial Magistrate concerned shall be liable for departmental action by the appropriate High Court."

6. Considering aforesaid circumstances, appeal application filed by appellants is *disposed off* directing Investigating Officer concerned to comply with directions issued by the Apex Court, mentioned above, in case of **Arnesh Kumar** (supra).

7. Appellants are directed to appear before the trial court at the time of filing of charge sheet and to co-operate in investigation of case and will appear before Investigating Officer as and when required for investigation. If appellants do not cooperate in investigation of case, then Investigating Officer is free to act in accordance with provisions of Criminal Procedure Code and directions issued by Apex Court in the case of **Arnesh Kumar** (supra).

8. With aforesaid direction, appeal is *disposed off*.
Certified copy as per rules.

(VISHAL DHAGAT)
JUDGE