

**THE HIGH COURT OF MADHYA PRADESH**

**Cr.A. No. 9175/2019**

**Jabalpur, Dated 13.11.2019**

Shri M.S. Bhatti, learned counsel for the appellant.

Shri S.B. Agnihotri, learned Govt. Advocate for the respondent/State.

Notice to the victim i.e. respondent No. 2 has already been served but no one is appearing on behalf of respondent No. 2.

The appellant has filed this appeal under Section 14-A (2) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 being aggrieved by the order dated 16.10.2019 passed by the Special Judge SC/ST (POA) Act, Umariya in bail application No. 251/2019, whereby the learned Special Judge dismissed the bail application filed by the appellant under Section 439 of the Cr.P.C.

The appellant is in jail in connection with Crime No.22/2019 registered at Police Chowki Amarpur, Police Station-Indwar, District Umariya for commission of offence punishable under Sections 341, 354, 354-घ and 323 of the IPC, under Section 7/8 of the POCSO Act and under Section 3(1)(w) & 3(2) (v-a) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989.

The case of the prosecution against the appellant is that on 28.01.2019 when prosecutrix went to answer the nature of call, the appellant appeared there and after holding her hand tried to drag her to some other place. She denied for that and on denying, appellant started assaulting her by fisticuffs.

Learned counsel for the respondent/State vehemently

opposes the bail application.

Having heard learned counsel for the parties and perused the case diary.

From perusal of the case diary, it emerges out that the prosecutrix at the time of incident was more than 17 years. After investigation, charge-sheet has been filed and trial will take considerable time.

Considering the all facts and circumstances of the case, this Court finds that learned trial Court erred in dismissing the application filed by the appellant under Section 439 of the Cr.P.C., therefore, the appeal filed by the appellant under Section 14-A (2) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 is allowed and the impugned order dated 16.10.2019 is hereby set aside.

It is directed that the appellant- **Gulab Pal** shall be released on bail on his furnishing a personal bond in the sum of **Rs.40,000/-(Rupees Forty Thousand Only)** with one solvent surety of the like amount to the satisfaction of the trial Court for his regular appearance before the trial Court during trial with a condition that he shall remain present before the Court concerned 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.

**(Vishnu Pratap Singh Chauhan)**  
**Judge**

**ashish**