

**HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR**

S.B. Criminal Appeal No. 1749/2021

Hemraj S/o Shri Gopal Lal, R/o Todhi Mohalla, Ps Kaithoon,
District Kota (Presently Lodged At Central Jail, Kota)

----Appellant

Versus

State Of Rajasthan, Through P.p

----Respondent

For Appellant(s) : Ms. Neha Gyamlani

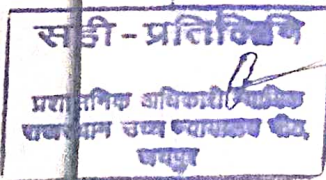
For Respondent(s) : Mr. M S Saini, PP

HON'BLE MR. JUSTICE FARJAND ALI

Order

17/05/2022

1. The instant appeal has been filed under Section 14A(2) SC/ST (Prevention of Atrocities) Act on behalf of the appellant, who is in custody in connection with FIR No.199/2021 registered at Police Station kaithoon, District Kota Rural for the offences under Section 302 of IPC and Section 3(2)(v) of the SC/ST (Prevention of Atrocities) Act.
2. It is submitted by learned counsel for the appellant that there is no eye-witness of the incident and the case of the prosecution is based upon circumstantial evidence, however no circumstances are available except hearsay evidence. She submits that as per Section 60 of Indian Evidence Act, the oral evidence of any incident must be direct in nature. If it relates to a fact which could be seen, it must be the evidence of that person who says that he saw the incident. Thus, simply on the basis of assumption, presumption and perception, no one can be arrested. She further submits that the recovery of trident is nothing but farce as the



prosecution witness deposed in the trial that the trident was lying at the spot. She thus, submits that there seems to be a case of no ^{fr} evidence offence and therefore his further incarceration would not be required for any purpose hence, benefit of bail may be granted to the appellant.

3. Per contra, learned Public Prosecutor and learned counsel for the complainant have opposed the bail application.

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

5. Having regard to the totality of facts and circumstances as available on record and upon a consideration of the arguments advanced, I am of the opinion that the appellant deserves to be enlarged on bail.

6. Consequently, the instant appeal is allowed. The impugned order dated 21.09.2021 passed by the Special Judge, SC/ST (Prevention of Atrocities) Case, Kota is set aside. It is ordered that the accused-appellant **Hemraj S/o Shri Gopal Lal** 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.



सही - प्रतिलिपि
प्रशासनिक अधिकारी
राजस्थान हाईकोर्ट
जयपुर

20/5/20

(FARJAND ALI), J