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\* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

*Date of decision: 14.02.2024*

+ CRL.A. 526/2023

X

..... Appellant

Through: Mr.Trideep Pais, Sr. Adv. with  
Mr.Mihir Samson, Ms.Asawari  
Sodhi, Ms.Gargi Sethi, Advs.

versus

STATE NCT OF DELHI & ANR. .... Respondents

Through: Mr.Shoaib Haider, APP.  
Mr.S.K.Manan, Sr. Adv. with  
Mr.Rahul Khan, Mr.Karmanya  
Singh Choudhary, Mr.Ritik,  
Mr.Lavish, Advs. for R-2.

**CORAM:**

**HON'BLE MR. JUSTICE NAVIN CHAWLA**

**NAVIN CHAWLA, J. (ORAL)**

1. This Appeal has been filed under Section 14A(2) of the Scheduled Castes and The Scheduled Tribes (Prevention of Atrocities) Act, 1989 (in short, 'SC & ST Act') by the alleged victim, challenging the order dated 01.04.2023 (hereinafter referred to as the 'Impugned Order') passed by the learned Additional Sessions Judge-02 (South-District), Saket Courts, New Delhi (hereinafter referred to as the 'Trial Court') granting bail to the Respondent No. 2 herein in FIR no.0077/2022 registered with Police Station: Hauz Khas, South-District, Delhi,



under Sections 376/354B/506 IPC & 3(1)(w)(i), 3(2)(v) of SC & ST Act.

2. The limited challenge of the appellant to the Impugned Order is that the same has been passed without serving notice of the application filed by the respondent no.2 seeking bail in the above FIR on the appellant/victim. The learned senior counsel for the appellant submits that the Impugned Order has, therefore, been passed in violation of Section 15A(3) and Section 15A(5) of the SC & ST Act. Placing reliance on the judgment of the Supreme Court in *Hariram Bhambhi v. Satyanarayan & Anr.*, 2021 SCC OnLine SC 1010, he submits that as the respondent no.2 has been granted bail without serving the notice of the bail application on the appellant and without giving her an opportunity of hearing and opposing the same, the Impugned Order is liable to be set aside on this limited ground itself. He submits that the appellant is not to plead or show the grounds for cancellation of the bail.
3. On the other hand, the learned senior counsel for the respondent no.2 submits that, in the present case, the learned Trial Court, after hearing the appellant as well, had enlarged the respondent no.2 on bail vide its order dated 09.02.2022. Thereafter, a charge sheet was filed by the respondent no.1 accusing the respondent no. 2 of offence under Sections 376/354B/506 IPC. It was only by way of a supplementary charge sheet, that the prosecution alleged that the respondent no.2 has also committed offence under Section 3(1)(w)(i) and Section 3(2)(v) of the SC & ST Act.
4. By an order dated 04.01.2023, the learned Trial Court took





appellant herein.

10. The learned APP is also not in a position to confirm if the notice on the bail application of the respondent no.2 had been duly served on the appellant by the IO.
11. In view of the above, this Court has to proceed on the assumption that the notice issued on the application filed by the respondent no.2 seeking bail had not been served on the appellant herein prior to the passing of the Impugned Order.
12. Sub-section (3) and sub-section (5) of Section 15A of the SC & ST Act read as under:

***“15A. Rights of victims and witnesses.***

(3) *A victim or his dependent shall have the right to reasonable, accurate and timely notice of any Court proceeding including any bail proceeding and the Special Public Prosecutor or the State Government shall inform the victim about any proceedings under this Act.*

*xxx*

(5) *A victim or his dependent shall be entitled to be heard at any proceeding under this Act in respect of bail, discharge, release, parole, conviction or sentence of an accused or any connected proceedings or arguments and file written submission on conviction, acquittal or sentencing.”*

13. A reading of the above provisions would show that it is mandatory for the Court to issue a reasonable notice of any Court proceedings, including any bail application filed by the accused, to the victim. It further confers a right on the victim or the dependent of a victim to be heard at any proceeding under the







passed by the learned Trial Court without ensuring service of notice of the application filed by the respondent no.2 seeking bail, on the appellant and without giving an opportunity of hearing on the said application to the appellant, the Impugned Order dated 01.04.2023 granting bail to the respondent no.2 is liable to be set aside. It is ordered accordingly.

17. The application seeking bail filed by the respondent no.2 is restored back to the file of the learned Special Judge. The same shall be considered by the learned Special Judge after giving an opportunity of hearing to the appellant herein, who is the alleged victim.
18. In the meantime, the respondent no.2 shall not be taken into custody for a period of 15 days from today, subject of course to the orders passed by the learned Special Judge on the application of the respondent no.2.
19. I may clarify that this court has not expressed any opinion on the merit of the order dated 01.04.2023 or otherwise.
20. The appeal is allowed in the above terms.
21. There shall be no order as to costs.

**NAVIN CHAWLA, J**

**FEBRUARY 14, 2024**

**RN/ss**

*[Click here to check corrigendum, if any](#)*