

APPEAL No. 1425 OF 2018

Basavraj Mallikarjun Birajdar	...	Appellant
Vs.		
The State of Maharashtra & Anr.	...	Respondents

Mr. Kuldeep U. Nikam, for the Appellant.
Mrs. M. M. Deshmukh, APP for the Respondent State.
Mr. Ranjeet H. Patil, for Respondent No. 2.

**CORAM : INDRAJIT MAHANTY, &
SARANG V. KOTWAL, JJ.**

DATE : FEBRUARY 6, 2019

PC :

1. By this appeal, Appellant is challenging the order dated 6.10.2018 passed by the DJ-5 /Additional Sessions Judge, Sangli in Cri. Misc. Application No. 791 of 2018. This appeal is filed under Section 14A of the Scheduled Caste and Scheduled Tribes (Prevention of Atrocities), Act 1989 (for short the “Atrocities Act”). The prosecution case is that one Shrishail Dashal has committed rape and then committed murder of the victim on 9.7.2018 in an agriculture field. The FIR was lodged at Umadi Police Station vide C. R. No. 57 of 2018 under S. 302, 376, 376A read with S. 34 of Indian Penal Code and S. 3(i)(w)(i)(ii) of the Atrocities Act. The charge-sheet is already filed.

2. The case of the prosecution against the Appellant is that after the accused committed the offence, appellant gave shelter to the accused in his house. It is alleged that the Appellant concealed the accused in his house for a few hours and dropped him on his motor-cycle to Guddapur and thereafter accused was absconding for some time. Perusal of statements of the wife of the appellant and his nephew show that main accused Shrishail was given shelter in the house by the appellant for some time. Thereafter the appellant dropped the accused on motor-cycle at Guddapur. The learned counsel for the Appellant submits that the appellant has no concern with the main offence, and therefore, prayed that appellant be released on bail.

3. Learned APP and the learned counsel appearing for Respondent No. 2 informant submits that since appellant has given shelter to the accused who has committed offence, which is of serious nature, appellant is equally responsible for commission of the offence.

4. Perusal of the statement of the wife of the appellant, and investigation papers show that the appellant had given shelter to the accused for some time after the crime was committed. The appellant has no concern with the main crime. Therefore, in our considered view, at the most it can be said that appellant has committed offences under S. 176 and 212 of the I.P.C., which are bailable. We do not find any allegation against the appellant for applying the provisions of the Atrocities Act. In this view of the

matter, we are of the view that appellant can be released on bail during pendency of the trial. Hence, the following order:

ORDER

- (i) The appellant is directed to be released on bail on his furnishing P.R. bond in the sum of Rs. 25,000/- with one or two sureties in the like amount during pendency of the trial.
- (ii) The appellant is directed to report Umadi Police Station once in a fortnight during pendency of the trial.
- (iii) The appeal is allowed and disposed of in the aforesaid terms.

Sd/-

[SARANG V. KOTWAL, J.]

Sd/-

[INDRAJIT MAHANTY, J.]

Vinayak Halemath