

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR

CRIMINAL APPEAL (APEAL) NO. 440/2019.

Mithun s/o Deorao Mahadore, Gadchiroli

Vs.

State of Maharashtra, thr.its PSO, PS Pendhari, Gadchiroli & Anr.

Office Notes, Office Memoranda of
Coram, appearances, Court's Orders
or directions and Registrar's order

Court's or Judge's Order

Shri R.R.Vyas, Advocate for appellant.

Shri A.D.Sonak, APP for respondent No.1/State.

None for respondent No.2.

CORAM: P.N. DESHMUKH & PUSHPA V. GANEDIWALA, JJ.
DATE : 05th SEPTEMBER, 2019.

This is an appeal filed under Section 14A of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 (hereinafter referred to as "the Act of 1989" in short). The challenge in this appeal is to the order dated 26/04/2019 passed by the learned Additional Sessions Judge, Gadchiroli in Special Atrocity Case No. 5/2019, whereby the bail application of the appellant has been rejected.

We have heard the learned counsel for both the parties and perused the record. The appellant is chargesheeted in Crime No. 01/2019, registered at Police Station, Pendhari, District Gadchiroli for the offence

punishable under Section 302 of the Indian Penal Code read with Section 3(2)(v) of the Act of 1989.

The prosecution story in brief is that in the mid night of 08/01/2019 at around 2.00 am, the deceased – Nikhil and the present appellant were sleeping together in the field of one Kashyap Gurnule. At that time, one unknown person inflicted injury on the head of the deceased – Nikhil, and during treatment at Government Hospital, Gadchiroli, he succumbed to the head injury. The present appellant was arrested and thereafter chargesheeted as he was last seen with the deceased and on suspicion that he was against the love affair of her sister – Jyoti with the deceased - Nikhil, a lower caste boy.

Admittedly, there is no eye-witness to the incident. Except the aforesaid allegation, the prosecution could not show any other material or circumstance against the present appellant. The appellant is in jail since 19/01/2019. On stringent conditions, the appellant may be released on bail. We pass the following order;-

ORDER

- 1] The Criminal Appeal is allowed.
- 2] The appellant shall be released on bail on executing P.R. Bond in the sum of Rs.50,000/- (Rs. Fifty thousand only)

with one surety in the like amount.

3] While on bail, the appellant shall attend Police Station, Pendhari, District Gadchiroli, on first day of each month and shall not indulge in tampering with the prosecution witnesses.

JUDGE

JUDGE

Sumit