

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

Criminal Appeal No. 824 of 2020

1. Dayashankar Yadav, S/o Heeralal Yadav, Age 35 years
2. Lalu Yadav, S/o Heralal Yadav, Age 25 years
Both Caste- Aahir, R/o Village- Mahnai, Tehsil- Bagicha, District Jashpur (C.G.)
3. Raju Ram, S/o Daleep Ram, Age 25 years
4. Gyan Ram, S/o Daleep Ram, Age 22 years
Appellant No. 3 and 4 Caste- Pahadi Korwa, R/o Village- Sulesha, Thana- Bagicha, District Jashpur (C.G.)

---- Appellants

Versus

- State of Chhattisgarh, Through: Chowki- Pandrapath, P.S. Bagicha, District Jashpur (C.G.)

---- Respondent/State

For Appellants	:	Shri Sanjay Agrawal, Advocate
For Respondent/State	:	Shri Dinesh Kumar Tiwari, Deputy Government Advocate

Hon'ble Shri Justice Gautam Chourdiya, J
Judgment on Board

14.12.2020

1. This appeal by the accused/appellants under Section 14A (2) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 is directed against the order dated 05.10.2020 passed by the Special Judge (Atrocities), Jashpur, District Jashpur (C.G.), refusing to allow their regular bail under Section 439 Cr.P.C. The appellants are in jail since 18.09.2020 in connection with Crime No. 130/2020 for the offence punishable under Sections 294, 436 & 506/34 of IPC and Sections 3(1) (r), 3 (1) (s) & 3 (2) (v) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989, registered at Police Station- Bagicha, District Jashpur(C.G.).
2. In this case, as per State counsel, he informed the complainant regarding date of hearing of the case, but neither the complainant is present nor is there any representation on his behalf.

3. The allegation against the accused/appellants is that on 14.09.2020, the appellants irrigated the government land over which the complainant has the possession. It is further alleged that on the same night, the appellants committed mischief by setting the thatch (*Chhappar*) of the complainant's house on fire and also abused the father of the complainant. Thereafter, the complainant lodged the F.I.R. against the present appellants on 18.09.2020.
4. Learned counsel for the appellants submits that due to land dispute of the complainant and their family with the accused/appellants, the present appellants have been falsely implicated in this case. He submits that prior to F.I.R. dated 18.09.2020 lodged by the complainant, Pandit Ram (uncle of appellant No. 3 also made complaint on 15.09.2020 against Ramphal to whom the disputed land was sold by Tenguram (uncle of the complainant). Thereafter, false report was lodged by the complainant against the present appellants. He further submits that the incident happened on 14.09.2020, but no prompt F.I.R. was lodged by complainant. In these circumstances, *prima facie*, no offence can be made out against the appellants. They are in custody since 18.09.2020 and conclusion of the trial is likely to take some time. Therefore, the appellants may be released on bail.
5. On the other hand, learned counsel for the State opposes the appeal.
6. I have heard learned counsel for the parties.
7. Considering the facts and circumstances of the case, the fact that there is dispute regarding possession of the government land between the appellants and the complainant party, delay in lodging the F.I.R. by the complainant and that Pandit Ram (uncle of appellant No.3) already lodged the complaint prior to the lodging of F.I.R. against Ramphal to whom the land in dispute was sold by Tenguram (uncle of the complainant), further considering the fact that the appellants are in jail since 18.09.2020, and conclusion of the trial is likely to take some time, without expressing any opinion on the merits of the case, this Court is of the opinion that present is a

fit case for grant of bail to the appellants. Accordingly, the appeal is allowed and the impugned order is set aside.

8. It is directed that in the event of each of the appellants executing a personal bond for a sum of Rs.50,000/- with two sureties of Rs.25,000/- each to the satisfaction of the concerned trial Court, they shall be released on bail on the following conditions:-

- i. They shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such fact to the Court.
- ii. They shall not act in any manner which will be prejudicial to fair and expeditious trial.
- iii. They shall appear before the trial Court on each and every date given to them by the said Court till disposal of the trial.
- iv. They shall not involve themselves in any offence of similar nature in future.

Sd/-
(Gautam Chourdiya)
Judge