

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

CRIMINAL APPEAL NO. 14 OF 2020

Lalaji Tulsiram Nikesar,
Aged about 49 years, Occ : Mason &
Cultivator, R/o. Rajoli, Tq. Dhanora,
Distt. Gadchiroli (In Jail)

.... **APPELLANT.**

// VERSUS //

1. State of Maharashtra,
Through Police Station Officer,
Police Station, Dhanora,
Dist. Gadchiroli.
2. The Victim aged about 35 years,
through her brother/complainant
Prakash Hari Madavi, Aged about
57 years, Occu. : Labour,
R/o. Heti, Tq. Dhanora, Dist. Gadchiroli.

.... **RESPONDENTS.**

Shri V.N.Morande, Advocate for Appellant.
Shri S.S.Doifode, A.P.P. for Respondent No.1/State.
Shri Sharad Thakre, Advocate (Appointed) for Respondent No.2-informant.

CORAM : Z.A.HAQ AND AMIT B. BORKAR, JJ.
DATED : OCTOBER 20, 2020.

ORAL JUDGMENT : (Per : Amit B. Borkar, J.)

1. Heard.

2. **ADMIT.**

3. This is an appeal filed under Section 14-A of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 challenging the order dated 12th December 2019, passed by Additional Sessions Judge, Gadchiroli.

4. Offences punishable under Section 376(2)(j),(i) of the Indian Penal Code and under Sections 3(1)(w)(i),(ii) and 3(2)(v) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 bearing Crime No. 59 of 2019 have been registered with the respondent No.1-Police Station against the appellant. The appellant, therefore, filed an application seeking bail before the Additional Sessions Judge, Gadchiroli, which is rejected by the impugned order.

5. Shri V.N.Morande, learned Advocate for the appellant submitted that medical examination of the victim does not support the case of prosecution inasmuch as there is no injury/injuries found on the person of the deceased, though the crime is alleged to have been committed in the agricultural field. It is also stated that there are no crime registered against the appellant and the appellant is working as Mason. The investigation is already complete and charge-sheet is filed. It is also submitted that the prosecution has not stated the reason as to why further custody of the appellant is required.

6. Shri S.S.Doifode, learned A.P.P. appearing for the prosecution strongly opposed the appeal and pointed out that the offence is grave and therefore, the appellant does not deserve to be enlarged on bail.

7. Shri Sharad Thakre, learned Advocate appearing for the respondent No.2 (victim through brother of the victim) also strongly opposed grant of bail on the ground that the victim is mentally challenged and therefore, the appellant does not deserve to be released on bail.

8. Having considered copy of the charge-sheet and the impugned order and also considering the submissions on behalf of the appellant that the investigation is complete and charge-sheet is filed, we are of the opinion that the appellant is entitled for grant of bail. By order dated 1st October 2020 this Court has released the appellant on provisional bail and there is no complaint against the appellant regarding misuse of the liberty granted to him.

9. Taking into consideration the reasons stated in the order dated 1st October 2020 and considering the fact that there is no crime registered against the appellant during interregnum, we are confirming the order of grant of provisional bail, dated 1st October 2020.

10. Hence, the following order:

- i) The impugned order dated 12th December 2019, passed by Additional Sessions Judge, Gadchiroli in Criminal Bail Application No. 548 of 2019 is quashed and set aside.
- ii) Order dated 1st October 2020, passed by this Court, is confirmed on the conditions stated in the operative part of the said order.

With the above observations, the criminal appeal is **allowed**.

Fees of the Advocate appointed to represent the respondent No.2 be quantified as per Rules.

(AMIT B. BORKAR, J)

(Z.A.HAQ, J)

RRaut..