

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

CRIMINAL APPEAL NO. 54/2020.

Salim s/o Jummakhan Pathan,
Aged about 29 years, Occupation
Food Stall, resident of Nimdhele,
Post Chargaon, Tahsil Warora,
District Chandrapur.

... **APPELLANT.**

VERSUS

1.State of Maharashtra,
through Police Station Officer,
Shegoan, District Chandrapur.

2.Pancham s/o Bhagwan Ramteke,
Aged about 40 years, Occupation
Agriculturist, resident of Gujgawhan,
Taluq Chimur, District Chandrapur.

... **RESPONDENTS.**

Shri Mahesh Rai, Advocate for the Appellant.
Ms. H.N. Jaipurkar, A.P.P. for Respondent No.1.
Ms.Gayatri Diwe, Advocate for Respondent No.2.

CORAM : VINAY JOSHI, J.

DATE : DECEMBER 14, 2020.

ORAL JUDGMENT :

Heard. **Admit.**

Considering the controversy involved and with consent

of learned Counsel present for the parties, the matter is taken up for final disposal.

2. The appellant is seeking regular bail in Crime No. 490/2019, registered as Shegaon Police Station for the offence punishable under Sections 306 of the Indian Penal Code and Section 3[1][r][s] and 3[2][va] of the Scheduled Caste and Scheduled Tribes (Prevention of Atrocities) Act, 1989. The Sessions Court has declined to grant bail vide its order dated 14.01.2020, which is impugned herein.

3. This Court on 23.01.2020, has granted interim protection to the appellant which is prevalent till date.

4. One Pancham Ramteke has lodged a report on 26.11.2019, on the basis of which crime came to be registered. He has stated that the appellant has abused to informants nephew namely – Gagan on 02.11.2019 and 03.11.2019 in the name of caste, for which Gagan has lodged a report. The appellant was arrested in said crime and later on released on bail. It is alleged that on 23.11.2019, the appellant gave threats to Gagan, as to why he has lodged report against the appellant. According to the informant on the very day, Gagan committed suicide by way of hanging, and

therefore, the report.

5. Deceased Gagan has committed suicide on 25.11.2019, whilst the report has been lodged on the following day. So far as the offence under the Atrocities Act is concerned, there appears to be doubt regarding applicability of those provisions, particularly the offence punishable under Section 306, is not incorporated in the scheduled annexed to the Act. Moreover, it requires consideration whether the alleged intimidation was with an intent to humiliate a member of the Scheduled Caste or Scheduled Tribe. There appears to be dispute between the deceased and the appellant since counter FIRs were filed earlier. It is a matter of trial, whether the isolated instance can be construed as sufficient instigation to commit suicide.

6. Already the appellant has faced custodial interrogation and on completion of investigation charge sheet has been filed. The appellant is enjoying liberty for near about one year by virtue of the interim order. There is no complaint about misuse of the liberty. True, there are certain antecedents which are pointed out in the reply by the State as well as the informant, however, most of the offences are under Bombay Prohibition Act. These instances cannot be considered as sufficient reason to curtail the liberty of the

appellant in above scenario.

7. In view of above, the appellant has made out a case for grant of bail. Criminal Appeal is therefore, allowed. The order passed by the learned Special Judge, Warora on 14.01.2020 in Misc. Criminal Application No. 430/2019, is hereby quashed and set aside.

Ad-interim order passed by this Court on 23.01.2020 is hereby made absolute on the same terms and conditions, except to attend the police station.

JUDGE

Rgd.