

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

CRIMINAL APPEAL NO. 367 OF 2020

Shyamkarna S/o. Patru Nagose,
A/a. 25 yrs. Occu:- Agricultural,
R/o. Pisewadadha, Tah. Armori,
Dist. Gadchiroli.

Police Station : Dhanora.
(In Chandrapur Jail)

....APPELLANT

// VERSUS //

1. The State of Maharashtra
Through Police Station Officer,
Police Station, Dhanora,
Dist. Gadchiroli.

2. Bhadu S/o. Ramji Meshram,
R/o. Pisewadadha, Tah. Armori,
Dist. Gadchiroli.

.... RESPONDENTS

Shri A. D. Ramteke, Advocate for the appellant.
Ms. K. S. Joshi, Addl.PP for the non-applicant No.1/State.

**CORAM : Z. A. HAQ AND
AMIT B. BORKAR, JJ.**

DATE : 16.12.2020.

ORAL JUDGMENT : [PER: AMIT B. BORKAR, J.]

1. Heard.

2. ADMIT.

3. This is an appeal under Section 14-A of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 (for short “the Act of 1989”) challenging the order dated 30.06.2020 passed by the learned Additional Sessions Judge, Gadchiroli in Criminal Bail Application No.90 of 2020.

4. The First Information Report came to be registered with the respondent No.1 on 23.01.2020 for the offences punishable under Section 302 read with Section 34 of the Indian Penal Code and Section 3(2)(v) of the Act of 1989.

5. The appellant was arrested on 24.01.2020. The appellant therefore, filed Criminal Bail Application No.90 of 2020 before the Additional Sessions Judge, Gadchiroli for bail under Section 439 of the Code of Criminal Procedure. The bail application of the appellant was rejected by the impugned order dated 30.06.2020. The appellant has therefore, filed the present appeal.

6. On 01.10.2020, notice was issued to the respondents. The respondent No.2 is served on 27.10.2020. In spite of service of notice, the respondent No. 2 has not put his appearance in the present matter. This Court on 23.11.2020 directed release of appellant on provisional bail subject to the conditions stated in the said order.

7. We have heard Shri A. D. Ramteke, the learned Advocate for the appellant. He submitted that there is no direct evidence against the appellant and there is delay of two months in registration of First Information Report and no incriminating material was seized against him.

8. We have heard Ms. K. S. Joshi, learned Additional Public Prosecutor for the respondent No.1. She strenuously opposed the prayer for grant of bail to the appellant. She submitted that the offence registered against the appellant is grave and there is *prima facie* material against the appellant. She further submitted that if he is released on bail, he may misuse the same to influence witnesses.

9. Having considered the material on record, we are of the opinion that the appellant has made out *prima facie* case for his release on bail. The investigation of the crime is already complete and charge-sheet is already filed in the Court. *Prima facie*, we find that the First Information Report is filed after more than two months from the date of incident. The appellant has undertaken that he will abide by all the conditions which will be imposed by this Court. Since this Court on 23.11.2020 directed release of the appellant on provisional bail and there is no complaint from

respondent No.1 that the appellant has misused liberty granted to him by the said order, we are of the opinion that the order of provisional bail dated 23.11.2020 is required to be confirmed subject to conditions which will be imposed.

10. We therefore, pass the following order.

i. The order dated 30.06.2020 passed by the Additional Sessions Judge, Gadchiroli in Criminal Bail Application No. 90 of 2020 is quashed and set aside.

ii. The order of provisional bail dated 23.11.2020 is confirmed on the same conditions subject to additional condition that the appellant shall not influence the witnesses in the trial.

The appeal is allowed in the above terms.

JUDGE

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