

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

CRIMINAL APPEAL NO. 367/2020

Shyamkarna P. Nagose

..VS..

State of Maharashtra & anr.

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

Court's or Judge's orders

Shri A.D. Ramteke, Advocate for the appellant
Ms. K.S. Joshi, Addl. PP for the respondent no. 1

CORAM : Z.A.HAQ & AMIT B. BORKAR, JJ.

DATED : 23/11/2020

1] This in an appeal under Section 14-A of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act filed against the order dated 30/06/2020 passed by the Additional Sessions Judge, Gadchiroli in Criminal Bail Application No. 90/2020.

2] F.I.R. came to be registered against the appellant and he was arrested on 24/01/2020. The appellant therefore filed an application before the learned Sessions Judge seeking bail which is rejected by the impugned order.

3] Notice of this appeal was issued pursuant to the order dated 01/10/2020, returnable on 28/10/2020. On 28/10/2020, the learned APP for the respondent no. 1 made a statement that the respondent no. 2 was served with the notice of this appeal on 27/10/2020. However, as the respondent no. 2 had not put in appearance, the matter was

adjourned to enable the respondent no. 2 to participate in the hearing of the appeal. The appeal was listed on 05/11/2020 on which date it could not be heard.

Today again, the respondent no. 2 has not put in appearance. Shri A.D. Ramteke, Advocate for the appellant submitted that though the respondent no. 2 is served on 27/10/2020, he has not taken steps to put in appearance and oppose the prayer of the appellant. Learned advocate for the appellant insisted for hearing of the appeal or in the alternative for grant of provisional bail to the appellant. The appellant has made a statement that any other crime/offence is not registered against him.

4] In the above circumstances, we have heard learned advocate for the appellant and learned APP for the respondent no. 1 – State.

5] On going through the record, it appears that the charge-sheet is filed and custodial interrogation of the appellant is not required. Having considered the statement of witnesses and in particular the statement of the respondent no. 2 – Bhadu Meshram, we are of the opinion that the appellant deserves to be released on provisional bail.

Hence, the following order : -

The appellant, having been arrested in connection with Crime No. 09/2020 for the offences punishable under Sections 302 and 34 of the Indian Penal Code and Section 3 (2)(v) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, he be released on provisional

bail on executing P.R. Bond for Rs. Fifty Thousand and on furnishing two solvent sureties in the like amount.

The appellant shall attend the sessions trial on each and every date unless granted exemption by the Sessions Judge.

In the meantime, the respondent no. 1 shall ensure that notice of this appeal is served on the respondent no. 2 and service report is placed on record of this appeal before the next date.

List the appeal for further consideration/hearing in the week commencing from 14/12/2020.

CRIMINAL APPLICATION (APPA) NOS. 431 & 383 of 2020

For the reasons stated in the applications, the applicant/appellant is permitted to file necessary document on record of the appeal. Filing of certified copy of the Lower Court orders is dispensed with.

The criminal applications are **allowed** accordingly.

JUDGE

JUDGE