

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

CRA No. 71 of 2021

1. Tapi Yadav S/o Duryodhan Yadav, Aged About 50 Years,
2. Dushyant Yadav S/o Tapi Yadav, Aged About 24 Years,
3. Khileshwar Yadav @ Mini Yadav S/o Tapi Yadav, Aged About 23 Years,

All are R/o Village Ghogra, Bangaon, Police Out Post Kotba, P.S. Baghbahar, District Jashpur (C.G.).

----Appellants

Versus

1. The State Of Chhattisgarh, Through Police Out Post Kotba, P.S. Baghbahar, District Jashpur (C.G.).

---- Respondent

For Appellants : Mr. A.K. Prasad, Advocate.
For Respondent/State : Mr. Dinesh R.K. Tiwari, Dy. Govt. Advocate.

Hon'ble Justice Shri Gautam Chourdiya
Judgment On Board

11/02/2021

- 1) This appeal by the accused/appellants under **Section 14(A)(2)** of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 is directed against the order dated 11/12/2020 passed by the Special Judge (constituted under Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989) Jashpur, District Jashpur (C.G.), refusing to allow their regular bail under Section 439 Cr.P.C. The appellants are in jail since 08/12/2020 in connection with Crime No. 88/2020 for the offence punishable under Sections 294, 323, 506, 325, 326, 34 of Indian Penal Code and under Section 3(1) (घ) & 3(2)(v)(क) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 registered at Police Out Post

Kotba, P.S. Baghbahar, District Jashpur (C.G.).

- 2) Case of the prosecution, in brief is that on 19/08/2020 the cattle of the appellants were grazing the field of Anil Painkra to which he objected and then the appellants started filthily abusing him in the name of caste and chased him for beating. Appellants Khileshwar Yadav and Dushyant Yadav assaulted Anil with club. Thereafter, the appellants also assaulted the complainant Dhansay, father of Anil Painkra. It is alleged that appellant Tapi Yadav assaulted Dhansay with stone on his head as a result of which blood started oozing from his head and he fell unconscious. On report being lodged to the above effect, offence under the aforesaid sections have been registered against the appellants.
- 3) Learned counsel for the appellants submit that the appellants are innocent person and have been falsely implicated in this case. He submits that the incident took place on 19/08/2020 whereas the report was lodged with an inordinate delay of 18 days on 06/09/2020. He submits that initially Fir was lodged under Sections 294, 506, 323, 34 of IPC and thereafter just to make the offence graver Section 3(1)(अ) & 3(2)(v)(क) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 were added. Appellants are in jail since 08/12/2020, charge sheet has already been filed and conclusion of the trial is likely to take some time. Therefore, the appellants be released on bail.
- 4) Learned counsel for the State opposing the submission made by the appellants' counsel submits that the trial Court has rightly rejected the bail application of the appellants and there is no illegality or infirmity in the same warranting interference by this Court.
- 5) Dhansay, complainant/victim alongwith his son Anil Kumar is present in person and raised objection to release of the appellants on bail.

- 6) Heard learned counsel for the parties & perused the case dairy.
- 7) Considering the facts and circumstances of the case, the nature of dispute giving rise to the incident, the period of hospitalization of the complainant/victim i.e. from 20/08/2020 to 26/08/2020, the detention period of the appellants, charge sheet has already been filed, there is no apprehension of the appellants' absconding or tampering with the evidence as admitted by the counsel for the parties and that conclusion of trial is likely to take some time, without commenting anything on 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**. It is directed that in the event **each** of the appellants executing a personal **bond** for a sum of **Rs. 50,000/- each** 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, and
 - 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