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HIGH COURT OF CHHATTISGARH, BILASPUR

Criminal Appeal No. 144 of 2021

- Devdas S/o Sohan Das, aged 19 years, R/o Village Kawalgiri, P.S. Udaipur, District Surguja (C.G.)

---- Appellant

Versus

1. State of Chhattisgarh, Through: Station House Officer, P.S. Udaipur, District Surguja(C.G.)

---- State/Respondent No.1

2. Smt. Ganeshwari Singh W/o Late Basant Singh, R/o Village Kawalgiri, P.S. Udaipur, District Surguja (C.G.)

---- Complainant/Respondent No.2

And

Criminal Appeal No. 226 of 2021

- Vijay S/o Vaishakhu, aged 35 years, Caste Ghasiya, R/o Village Kawalgiri, P.S. & Tehsil Udaipur, District Surguja (C.G.)

---- Appellant

Versus

1. State of Chhattisgarh, Through: Station House Officer, P.S. Udaipur, District Surguja(C.G.)

---- State/Respondent No.1

2. Smt. Ganeshwari Singh W/o Late Basant Singh, R/o Village Kawalgiri, P.S. Udaipur, District Surguja (C.G.)

----- Complainant/Respondent No. 2

For Appellants	:	Shri Nishi Kant Sinha, Advocate
For Respondent No.1 /State	:	Shri Vimlesh Bajpai, Government Advocate
For Respondent No.2/ Complainant/Objector	:	Shri Amit Singh Chauhan, Advocate

Hon'ble Shri Justice Gautam Chourdiya, J

Judgment on Board

23.03.2021

1. Cr.A. No. 144 of 2021:
2. Heard.
3. Admit.

4. With the consent of learned counsel for the parties, these appeals are heard finally.
5. The appeal (Cr.A. No. 144/2021) by accused/appellant Devdas under Section 14A (2) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 is directed against the order dated 14.01.2021 passed by the Special Judge (Atrocities Act), Ambikapur, District Surguja (C.G.) in Special Sessions Case No. 39/2020, refusing to allow his regular bail under Section 439 Cr.P.C.
6. The appeal (Cr.A. No. 226/2021) by accused/appellant Vijay under Section 14A (2) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 is directed against the order dated 20.10.2020 passed by the Special Judge (Atrocities Act), Ambikapur, District Surguja (C.G.) in Bail Application No. 757/2020, refusing to allow his regular bail under Section 439 Cr.P.C.
7. As above both the appeals preferred by the appellants arise out of the same Crime Number i.e. 110/2020 registered in Police Station- Udaipur, District Surguja (CG) for the offence punishable under Sections 294, 506, 323, 302 147 & 148 of IPC and Sections 3 (1) (r) (s) & 3 (2) (v) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 against both the appellants, they are being disposed of by this common judgment.
8. Case of the prosecution, in brief is that when the villagers were dancing during the course of immersion of lord Ganesha, a dispute arose between deceased Basant Singh and Harish Thakur on which Harish Thakur, Ashok Thakur, the present appellants Devdas & Vijay, co-accused Rajendra Kumar and other villagers assaulted deceased Basant Singh with club, stick, hands and fists as a result of which the deceased sustained grievous injury over head and other parts of the body and succumbed to the same during treatment. On report being lodged to the above effect, offence under the

aforesaid sections has been registered against the present appellants.

9. Learned counsel for the appellants appearing in both the appeals submits that the appellants are the innocent persons and have been falsely implicated in this case. He submits that the appellants are in jail since 27.08.2020 & 24.09.2020, charge-sheet has been filed and conclusion of the trial is likely to take some time. He also submits that co-accused namely Rajendra Kumar has been granted bail by this Court vide order dated 12.01.2021 passed in Cr.A. No. 858 of 2020, therefore, on the ground of parity the present appellants be also released on bail.
10. Learned counsel for the State as well as counsel for the complainant opposing the submission made by the appellants' counsel submit that the trial Court has rightly rejected the bail applications of the appellants and there is no illegality or infirmity in the same warranting interference by this Court.
11. Heard learned counsel for the parties & perused the case diary.
12. Considering the facts and circumstances of the case, the written complaint made by complainant Ganeshwari Singh and the statement of eye witness Rom Singh Thakur @ Romharkan Singh wherein it is stated that the deceased was assaulted by Harish Thakur & Ashok Thakur by means *lathi*, there is no seizure made from the appellants, the detention period of the appellants, charge-sheet has already been filed, conclusion of the trial is likely to take some time and that co-accused has already been granted bail by this Court in this crime, there is no apprehension of the appellants tampering with the evidence or absconding, without expressing any opinion on the merits of the case, this Court is of the opinion that present are the fit cases for grant of bail to the appellants. Accordingly, the appeals are allowed.
13. It is directed that in the event of each of the appellants executing a personal

bond for a sum of Rs.50,000/- with two sureties of Rs.25,000/- 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.
- 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.

14. In the result, Cr.A. No. 144 of 2021 and Cr.A. No. 226 of 2021 are allowed on the above terms and conditions.

Sd/-

(Gautam Chourdiya)
Judge