

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

Criminal Appeal No. 347 of 2021

- Shyamlal Kushwaha son of Kawaleshwar, aged about 27 years, resident of Sonhat, Bachhaharipara, P.S. Raghunathnagar, District Balrampur-Ramanujganj (C.G.)

---- Appellant

Versus

- State of Chhattisgarh, Through : Station House Officer, Police Station Raghunathnagar, District Balrampur-Ramanujganj (C.G.)

---- State/Respondent

For Appellant	: Shri Pawan Kumar Kashyap, Advocate
For Respondent/State	: Dr.(Ms.) Veena Nair, Deputy Advocate General
For Objector/Complainant	: Shri Arun Shukla, Advocate

Hon'ble Shri Justice Gautam Chourdiya, J

Judgment on Board

08.04.2021

1. This appeal by the accused/appellant under Section 14(A) (2) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 is directed against the order dated 21.01.2021 passed by the Special Judge (SC/ST Act), Ramanujganj, District Balrampur-Ramanujganj (C.G.) in Special Sessions Case. No. 53/2020, refusing to allow his regular bail under Section 439 Cr.P.C. The appellant is in jail since 16.09.2020 in connection with Crime No. 99/2020 for the offence punishable under Sections 302 & 201 read with Section 34 of IPC and Section 3 (2) (v) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, registered at Police Station- Raghunathnagar, District Balrampur-Ramanujganj (C.G.).
2. Allegation against the present appellant is that on 12.09.2020 at about 09:00 pm, co-accused Panchbahadur Kushwaha committed murder of deceased- Santraj Cherwa and thereafter he alongwith his brother Shyamlal Kushwaha and neighbour Jagsai Cherwa concealed the dead body of deceased in

paranghaghi-nala. F.I.R. was registered under the aforementioned Sections of IPC and Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act against three persons i.e. co-accused namely Panchbahadur Kushwaha, Jagsai Cherwa and the present appellant.

3. Learned counsel for the appellant submits that the appellant has been falsely implicated in this case and he did not commit the murder of deceased. He further submits that the appellant is in jail since 16.09.2020, charge-sheet has been filed and conclusion of the trial is likely to take some time. Therefore, the appellant be released on bail.
4. On the other hand, learned counsel for the State as well as learned counsel for the complainant oppose the appeal.
5. I have heard learned counsel for the parties.
6. Considering the facts and circumstances of the case, considering the memorandum statements of co-accused namely Panchbahadur Kushwaha & Jagsai Cherwa, no any assault was made by the present appellant, he (appellant) only concealed the dead body of the deceased with the help of co-accused Panchbahadur Kushwaha & Jagsai Cherwa, detention period of the appellant who is 27 years old, charge-sheet has already been filed, conclusion of the trial is likely to take some time and he has no criminal antecedent as stated by the both the counsel, there is no apprehension of the appellant tampering with the evidence or absconding, without expressing any opinion on the merits of the case, this Court is of the opinion that present is a fit case for grant of bail to the appellant. Accordingly, the appeal is allowed and the impugned order in relation to appellant Shyamlal Kushwaha is set aside.
7. It is directed that in the event of appellant 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, he shall be released on bail on the following

conditions:-

- i. he 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. he shall not act in any manner which will be prejudicial to fair and expeditious trial.
- iii. he shall appear before the trial Court on each and every date given to him by the said Court till disposal of the trial.
- iv. he shall not involve himself in any offence of similar nature in future.

Sd/-
(Gautam Chourdiya)
Judge

vatti