

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

(Proceedings through Video Conferencing)

Criminal Appeal No. 471 of 2021

- Uttam Agariya S/o. Sahas Ram, aged about 24 years, R/o. Village- Pelma, P.S. Tamnar, District Raigarh (C.G.)

---- Appellant

Versus

- State of Chhattisgarh, Through Officer-in-charge Tamnar, Raigarh (C.G.)

---- Respondent/State

For Appellant	:	Shri Ashutosh Mishra, Advocate
For Respondent/State	:	Shri K.K. Singh, Government Advocate

Hon'ble Shri Justice Gautam Chourdiya, J

Judgment on Board

14.07.2021

1. This appeal by the accused/appellant under Section 14A (2) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 is directed against the order dated 23.03.2021 passed by the Special Judge (Atrocities Act), Raigarh, District Raigarh (C.G.) in Special Criminal Case under the Atrocities Act No. 08/2021, rejecting his regular bail under Section 439 Cr.P.C. The appellant is in jail since 17.12.2020 in connection with Crime No. 429/2020 for the offence punishable under Sections 294, 323 & 306 of IPC and Section 3 (1) (s) & 3 (2) (v) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989, registered at Police Station- Tamnar, Raigarh (C.G.).
2. Prosecution case in brief is that on 16.09.2020 deceased Ajay Kumar Chauhan had gone to the house of the appellant where the appellant said to him that he (appellant) had helped the deceased when he (deceased) was implicated in the case of theft. The allegation against the appellant is that he

assaulted the deceased by slipper (*chappel*) abusing him filthily. Thereafter, the deceased came back to his house, poured kerosene on him and set him on fire. During treatment of the deceased in hospital, his dying declaration was recorded and he died on 20.09.2020. Death information was sent by Doctor to Police Station City Kotwali, Raigarh. On the basis of said information, aforesaid offences under Sections of the IPC and Section of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 were registered against the appellant in Police Station Tamnar, Raigarh.

3. Learned counsel for the appellant submits that the appellant is an innocent person and has been falsely implicated in this case. He also submits that the appellant is in jail since 17.12.2020 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 opposes the appeal.
5. As per State counsel, notice has been served upon the dependents of the deceased, however, no one appeared for them.
6. I have heard learned counsel for the parties.
7. Considering the facts and circumstances of the case, considering the contents of the dying declaration of the deceased, there is no previous enmity of the appellant with the deceased, only the appellant had taken the surety of the deceased in theft case, no injury was found on the body of the deceased, further considering the age of the appellant who is 24 years, he is in jail since 17.12.2020, charge-sheet has already been filed, due to Covid-19 pandemic, conclusion of the trial is likely to take some time, there is no apprehension of the appellant tampering with the evidence or absconding and the appellant has no criminal antecedents as admitted by both the counsel, 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 is set aside.

8. It is directed that in the event of appellant executing a personal bond for a sum of Rs.1,00,000/- with two sureties of Rs.50,000/- each 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.
- v. he shall strictly follow the Covid-19 protocol issued by the Central Govt./State Govt./Local Authority.

Sd/-
(Gautam Chourdiya)
Judge