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HIGH COURT OF CHHATTISGARH, BILASPUR**Criminal Appeal No. 752 of 2021**

1. Suryakant Tiwari, aged 23 years, Gendlal Tiwari,
2. Preetam Sahu, Aged 26 years, S/o Shri Deenbandhu Sahu,
Both R/o Village Baroda, Post Mandhar, P.S. - Vidhan Sabha, District Raipur
(C.G.) (details not mentioned completely in the order sheet)

---- Appellants**Versus**

- State of Chhattisgarh, through the Station House Officer (SHO), P.S. Dogargarh, District Rajnandgaon (C.G.)

---- State/Respondent

For Appellants	:	Shri Devershi Thakur, Advocate
For Respondent /State	:	Shri Adil Minhaz, Government Advocate

Criminal Appeal No. 829 of 2021

- Kaushal @ Daimond Sahu, S/o Punau Ram Sahu, aged about 29 years, R/o Village- Nayapara Tekari, Mandhar, Dharsiwa, Police Station – Dharsiwa, Raipur, District Raipur (C.G.)

---- Appellant**Versus**

- State of Chhattisgarh, through the Stations House Officer, Police Station- Dongargarh, District Rajnandgaon (C.G.)

---- State/Respondent

For Appellant	:	Shri Shivendu Pandya, Advocate
For Respondent /State	:	Shri Adil Minhaz, Government Advocate

And**Criminal Appeal No. 848 of 2021**

- Sushmita Ramteke W/o late Avinash Ramteke, aged about 21 years, R/o Danteshwari Para, Police Station Dongargarh, District Rajnandgaon (C.G.)

---- Appellant**Versus**

- State of Chhattisgarh, through the Police Station Dongargarh, District Rajnandgaon (C.G.)

---- State/Respondent

For Appellant	:	Shri S.S. Baghel, Advocate
For Respondent /State	:	Shri Adil Minhaz, Government Advocate

Hon'ble Shri Justice Gautam Chourdiya, J
Judgment on Board

10.09.2021

1. Cr.A. No. 752/2021 by accused/appellants Suryakant Tiwari and Preetam Sahu under Section 14 (A) (2) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 is directed against the order dated 18.06.2021 passed by the Special Judge (Atrocities), Rajnandgaon, District Rajnandgaon (C.G.) in Special Case No. 19/2021, rejecting their regular bail under Section 439 Cr.P.C.
2. Cr.A. No. 829/2021 by accused/appellant Kaushal @ Daimond Sahu under Section 14 (A) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 is directed against the order dated 05.07.2021 passed by the Special Judge (Atrocities), Rajnandgaon, District Rajnandgaon (C.G.) in Special Case No. 19/2021, rejecting his regular bail under Section 439 Cr.P.C.
3. Cr.A. No. 848/2021 by accused/appellant Sushmita Ramteke under Section 14 (A) (2) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 is directed against the order dated 03.08.2021 passed by the Special Judge (Atrocities), Rajnandgaon, District Rajnandgaon (C.G.) in Special Criminal Case No. 19/2021, rejecting her regular bail under Section 439 Cr.P.C.
4. As above all the appeals preferred by the respective appellants arise out of the same Crime Number i.e. 166/2021 registered in Police Station Dongargarh, District Rajnandgaon (CG) for the offence punishable under Sections 302, 201, 120-B read with Section 34 of IPC and Section 3 (2) (v) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 against all the appellants, they are being disposed of by this common judgment.
5. As per prosecution case, on 23.03.2021 complainant Vinayak Meshram

lodged *Dehatinalishi* that his friend Avinash Ramteke (deceased) is missing since yesterday and his mobile is switched off. After some time, he received telephonic call from one Ashish Dongre who informed him that dead body of Avinash Ramteke and his vehicle are lying near Kurubhat Pipariya Road. On first information report being lodged by the complainant, the matter was investigated. During investigation, it revealed that co-accused Kaushal @ Daimond Sahu had illicit relation with wife of the deceased Sushmita Ramteke. In order to commit murder of the deceased, on 23.3.2021 applicant Daimond Sahu alongwith applicants Suryakant Tiwari and Preetam Sahu came to Dongargarh by Swift Car bearing registration No. CG-04 MT 6441 and after leaving applicants Suryakant Tiwari and Preetam Sahu at the temple there, applicant Daimond Sahu called the deceased and thereafter both of them went Kurubhat where applicant Daimond Sahu assaulted the deceased with broken bottle of beer on his neck and with a knife on his abdomen about 18-20 times and thereafter threw him in the culvert.

6. Father of deceased namely Nirmal Das Ramteke is connected through video conferencing from District Legal Services Committee, Rajnandgaon (C.G.) and he has objection to grant of bail to the appellants by this Court.
7. Shri Shivendu Pandya, learned counsel appearing on behalf of appellant- Kaushal @ Daimond Sahu i.e. Cr.A. No. 829/2021, seeks to withdraw this appeal with liberty to file a fresh appeal as and when occasion arises.
8. Accordingly, the appeal (Cr.A. No. 829/2021) is dismissed as withdrawn with the liberty as stated above.
9. Now this Court considers the appeals on behalf of appellants- Suryakant Tiwari & Preetam Sahu i.e. Cr.A. No. 752/2021 and appellant- Sushmita Ramteke i.e. Cr.A. No. 848/2021.
10. Shri Devershi Thakur, learned counsel appearing on behalf of appellants Suryakant Tiwari and Preetam Sahu i.e. Cr.A. No. 752/2021, submits that the appellants are innocent persons, have been falsely implicated in this

case and only on the basis of memorandum of accused- Kaushal @ Daimond Sahu, the appellants have been made accused in the crime in question. Only allegation against the appellants is that on the date of incident, they were dropped at temple by accused Kaushal @ Daimond Sahu in a Swift Car and there have been no seizure from the appellants. He submit that appellants are in jail since 26.03.2021, charge-sheet has already been filed and due to Covid-19 pandemic, conclusion of the trial is likely to take some time, therefore, the appellants be released on bail.

11. Shri S.S. Baghel, learned counsel appearing on behalf of appellant Sushmita Ramteke i.e. Cr.A. No. 848/2021, submits that the appellant is wife of the deceased, she is an innocent, has been falsely implicated in this case and she did not have illicit relations with accused Kaushal @ Daimond Sahu. He submits that there is no seizure of any articles from the appellant as well as there are no eyewitnesses to support the prosecution case. He also submit that appellant is in jail since 26.03.2021, charge-sheet has already been filed and due to Covid-19 pandemic, conclusion of the trial is likely to take some time, therefore, the appellant be released on bail.

12. On the other hand, learned counsel for the State opposing the submission made by the respective appellants' counsel submits that the trial Court has rightly rejected the bail applications of appellants- Suryakant Tiwari, Preetam Sahu and Sushmita Ramteke and there is no illegality or infirmity in the same warranting interference by this Court.

13. Heard learned counsel for the parties.

14. So far as appellants- Suryakant Tiwari and Preetam Sahu are concerned, considering the facts and circumstances of the case, the fact that both had only gone alongwith accused Kaushal @ Daimond Sahu from Raipur to Dongargarh, but they were not present at the time of incident when accused Kaushal @ Daimond allegedly committed murder of deceased by assaulting him with sharp and cutting weapon, nor seizure of any incriminating material

was made from both the appellants, as per memorandum statements of Kaushal @ Daimond Sahu, both the appellants have no enmity with the deceased or any specific motive for committing murder of the deceased, that considering the detention period of appellants who are 23 & 26 years old, charge-sheet has already been filed, conclusion of the trial is likely to take some time and 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 is a fit case for grant of bail to the appellants. Accordingly, the Cr.A. No. 752/2021 is allowed.

15. It is directed that in the event of each of the appellants (SuryaKant Tiwari & Preetam Sahu) executing a personal bond for a sum of Rs.2,00,000/- with two sureties of Rs.1,00,000/- 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.
- 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.
- v. they shall strictly follow the Covid-19 protocol issued by the Central Govt./State Govt./Local Authority.

17. Let a copy of this order be forwarded to the concerned Police Station forthwith who shall inform the trial Court in the event of appellants involving themselves in similar nature of offence.

18. So far as appellant- Sushmita Ramteke is concerned, she was wife of deceased, the allegation made against her by father-in-law Nirmal Das Ramteke is that she was having relations with main accused Kaushal @ Daimond Sahu; as per 161 CrPC statement of Nirmal Das Ramteke, he suspected the appellant that she alongwith accused Kaushal @ Daimond Sahu committed murder of the deceased; as per statement of complainant Vinayak Meshram, he heard that murder of deceased was committed by his

wife and Daimond Sahu; as per statement of Onkar Singh, he heard that accused Daimond was having relations with the wife of deceased; as per statement of Rajesh Revannath Meshram, he had seen accused Daimond 2-3 times in Car alongwith the wife of deceased; as per call details of the deceased, wife of the deceased & accused Kaushal @ Daimond Sahu collected by the police during investigation annexed with charge-sheet, all were in contact with each other through mobile phone on the fateful day; without commenting anything on merits of the case, this Court is not inclined to release appellant Sushmita Ramteke on bail. The order impugned of the trial Court rejecting the appellant's bail application does not suffer from any illegality or perversity. Accordingly, the Cr.A. No. 848/2021 being without any substance is hereby dismissed.

19.In the result, Cr.A. No. 752/2021 is allowed on the above terms and conditions, whereas Cr.A. No. 848/2021 is dismissed on merits and Cr.A. No. 829/2021 is dismissed as withdrawn with the aforesaid liberty as prayed for.

Sd/-
(Gautam Chourdiya)
Judge