

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

(Proceeding through Video Conferencing)

Criminal Appeal No. 862 of 2021

1. Mohan, S/o. Shobran, aged about 70 years,
2. Rajkumar Yadav S/o. Shobran, aged about 50 years,
All above R/o. Village Pathrai, Tahsil Mainpat, Police Station
Kamleshwarpur, District Surguja (C.G.)

---- Appellants

Versus

- State of Chhattisgarh, through: Police Station Kamleshwarpur, Mainpat,
District Surguja, Chhattisgarh (C.G.)

---- Respondent/State

For Appellants	:	Shri Anurag Singh, Advocate
For Respondent/State	:	Shri Adil Minhaz, Government Advocates
For Objector	:	Shri Amarnath Pandey, Advocate

Hon'ble Shri Justice Gautam Chourdiya, J

Judgment on Board

01.09.2021

1. This appeal by the accused/appellants under Section 14(A) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 is directed against the order dated 04.08.2021 passed by the Special Judge (Atrocities), Ambikapur, District Surguja (C.G.) in Bail Application No. 630/2021, rejecting their regular bail under Section 439 Cr.P.C. The appellants have been arrested in connection with Crime No. 71/2020 for the offence punishable under Sections 294, 506 read with Section 34 of IPC and Section 3 (1) (r) (s) (g) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, registered at Police Station- Kamleshwarpur, Mainpat, District Surguja (C.G.).
2. As per prosecution case, F.I.R. was lodged by complainant Reeta Ekka that father of the complainant Linus Ekka is owner of land bearing Khasra No. 16/19 area 0.242, despite knowing the said fact the appellants willingly left their buffalo for grazing on the land of Linus Ekka and when the complainant

tried to stop the appellants, they threatened the complainant and even abused her over their caste.

3. Learned counsel for the appellants submits that due to land dispute, the present appellants have been falsely implicated by the complainant party. Their dispute under Section 145 Cr.P.C. is also pending before the S.D.M. As per applications (Annexure-A/3 & Annexure-A/4) filed by appellant Mohan before the S.D.M., Sitapur, proceedings under Section 145-146 of Cr.P.C. are pending wherein stay has been granted in favour of appellant Mohan and against the complainant party. Though appellant Mohan was convicted by Special Judge, Surguja vide judgment dated 26.11.2018 but in appeal, the sentences imposed upon him have been suspended while releasing him on bail by coordinate bench of this Court. He also submits that appellant Rajkumar Yadav has no criminal antecedents and appellant Mohan has one criminal antecedents and he is 70 years old, therefore, the appellants be released on bail.
4. Learned counsel for the State as well as learned counsel for the objector oppose the appeal and submit that appellant Mohan repeated the similar nature of offence.
5. I have heard learned counsel for the parties.
6. Considering the facts and circumstances of the case, the nature of allegation made against the appellants, offence under Sections 294, 506 R/w 34 of IPC are bailable except offence under the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, though appellant Mohan has one criminal antecedents under Sections 447/34, 294, 506B/34 of IPC and Sections 3 (1) (x), 3 (1) (iv), 3 (1) (v) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, but his conviction under aforesaid sections his appeal is pending for consideration before this Court where he has been granted bail, appellant Rajkumar Yadav has no criminal

antecedents, the detention period of the appellants who are 50 & 70 years old, due to Covid-19, conclusion of the trial is likely to take some time, 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 appeal is allowed.

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

Sd/-
(Gautam Chourdiya)
Judge