

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

CRA No. 717 of 2020

1. Mahaveer @ Bondal Manhar, S/o Kaushal Manhar, Aged About 19 Years, Occupation Labourer, R/o Jailpara, Near Muktidham, Raigarh, Tahsil And District Raigarh (C.G.).

----Appellant

Versus

1. State Of Chhattisgarh Through - Police Station - AJAK, Raigarh, District Raigarh (C.G.) (Police Station City Kotwali, Raigarh).

---- Respondent

For Appellant : Mr. Ashish Gupta, Advocate.
For Respondent/State : Dr. (Ms.) Veena Nair, Dy. Advocate General.

Hon'ble Justice Shri Gautam Chourdiya
Judgment On Board

28/01/2021

- 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 19/06/2020 in Special Criminal Case under the Atrocities Act No. 9/2020 passed by the Special Judge (Atrocities Act), District Raigarh (C.G.), refusing to allow his regular bail under Section 439 Cr.P.C. The appellant is in jail since 30/10/2019 in connection with Crime No. 947/2019 for the offence punishable under Sections 148, 294, 307/149, 324/149, 323/149, 506B of Indian Penal Code, under Section 25(1-B)(b) of the Arms Act and under Sections 3(1)(5), 3(1)(R) & 3(2)(v) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 registered at Police Station AJAK, Raigarh, District Raigarh (C.G.).
- 2) Allegation against the appellant is that on 29/10/2019 about 7 PM he alongwith other co-accused persons on account of

previous enmity with injured Kanhaiya Malhotra abused him filthily and made a factual assault with *Khukhri* (a knife with a curved blade broadening towards the point) on his head, neck and left arm whereas the other co-accused assaulted Kanhaiya Malhotra with club. During intervention, mother of the co-accused Pappu Chouhan namely Samarin Chouhan also sustained injury over her left wrist. On report being lodged to the above effect, offence under the aforesaid sections has been registered against the appellant.

- 3) Learned counsel for the appellant submits that the appellant is an innocent person and has been falsely implicated in this case. He submits that similarly situated co-accused Pappu Chouhan, Rakesh Sahu and Suresh Verma have already been granted regular bail by the Co-ordinate Bench of this Court vide order dated 10/02/2020 in MCRC No. 7933/2019, MCRC No. 489/2020 and MCRC No. 8489/2019 respectively. He further submits that the appellant is in jail since 30/10/2019, 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 respondent/State opposes the bail application.
- 5) Injured Kanhaiya Malhotra alongwith his brother Balram/ complainant are present in person and raised objection to release of the appellant on bail.
- 6) Heard learned counsel for the parties & perused the case dairy.
- 7) Considering the facts and circumstances of the case, the detention period of the appellant, charge sheet has already been filed, and that conclusion of trial is likely to take some time and in particular the fact that similarly situated co-accused have already been released on bail by the Co-ordinate Bench of this Court, without commenting anything on 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**. It is directed that in the event of appellant executing a personal **bond** for a sum of **Rs. 25,000/-** with **one** surety 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, and
- 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

Chandrakant