

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

CRA No. 729 of 2020

- Haricharan Rajwade S/o Late Vikul, Aged About 40 Years R/o Bal Shiv, P.S. Manendragarh, District Koriya Chhattisgarh.

---- Appellant

Versus

- State Of Chhattisgarh Through Police Station Manendragarh District Koriya Chhattisgarh.

---- Respondent

For appellant	: Shri Pushkar Sinha, Advocate
For Respondent/State	: Dr. (Ms.) Veena Nair, Dy. A.G.

Hon'ble Justice Shri Gautam Chourdiya

Order on Board

19.01.2021

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 30.06.2020 passed by the Special Judge (ST/SC Act), Kororia (C.G.) in Crime No. 51/2018 refusing to allow his regular bail under Section 439 of Cr.P.C. for the offence punishable under Section 302 of IPC and Section 3 (2-5) of SC/ST Act, registered at Police Station- Manendragarh, District- Koriya (C.G.). The appellant is in jail since 07.04.2018.
2. Prosecution case is that as son of the deceased had taken away the sister of the appellant, the appellant having got enraged, brutally beat the deceased with hands and fists on 05.11.2017 at 10.00 a.m. at Balshiv village as a result of which the deceased died during treatment.
3. Learned counsel for the appellant submits that the allegations against the appellant are false and fabricated, he is falsely implicated in the case. He submits that appellant had no

intention or knowledge to kill the deceased, as per post-mortem report deceased died due to septicemia, the death was not homicidal in nature and there was no injury on the body of the deceased. He further submits that FIR lodged with an inordinate delay on 05.02.2018 for that no satisfactory explanation has been offered, appellant is aged about 40 years and is in jail since 07.04.2018, charge-sheet has already been filed, the appellant has no criminal antecedents and conclusion of the trial is likely to take some time, therefore, at this stage, he may be granted bail.

4. On the other hand, learned State Counsel opposes prayer for grant of bail and submits that the prime-facie case is made out against the appellant because he assaulted the deceased mercilessly and during treatment deceased died. However, appellant has no criminal antecedents.
5. The complainant wife of the deceased has appeared in person and vehemently objected to release of the appellant on bail.
6. Having considered the submission made by learned counsel for the parties, taking into consideration the nature of allegation, incident took place on 05.11.2017 whereas FIR was lodged only on 05.02.2018, the deceased died on 11.11.2017, as per post-mortem report only abrasion over left knee and swelling over left forehead was found, cause of death is opined to be septicemia, there is nothing in the case diary to show that the deceased was provided treatment for the injuries sustained in the incident till his death, the appellant is in jail since 07.04.2018, he has no criminal antecedent as admitted by both the counsel, eye witnesses of the case are yet to be examined, there is no likelihood of the appellant tampering with the evidence or absconding, the trial is pending for the last about three years and that conclusion of trial is likely to take some time, without commenting on merits of the case, the appeal is allowed. It is directed that in the event of the appellant executing a personal bond for a sum of Rs.50,000/- with two sureties of Rs. 25,000/- each to the satisfaction of the concerned Trial Court, he

shall be released on bail on following conditions:-

(a) 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.

(b) he shall not act in any manner which will be prejudicial to fair and expeditious trial, and

(c) he shall appear before the trial Court on each and every date given to him by the said Court till disposal of the trial.

(d) he shall not involve himself in any offence of similar nature in future.

Sd/-

(Gautam Chourdiya)
Judge

Nadim