

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

Criminal Appeal No. 777 of 2020

- Dhanesh Patel, son of Jagannath Patel, aged about 36 years, resident of Karhi, Police Station Saja, District Bemetara, Chhattisgarh

---- Appellant

Versus

- State of Chhattisgarh Through : Station House Officer, Police Station Singhanpuri Jungle, District Kabirdham, Chhattisgarh

---- Respondent/State

For Appellant	:	Shri Umakant Singh Chandel, Advocate
For Respondent/State	:	Shri Vimlesh Bajpai, Government Advocate

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

28.01.2021

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 28.09.2020 passed by the Special Judge (Atrocities Act) Kabirdham, District Kabirdham (C.G.) in Special Case No. 661/2020, refusing to allow his regular bail under Section 439 Cr.P.C. The appellant is in jail since 30.06.2020 in connection with Crime No. 35/2019 for the offence punishable under Sections 302, 201 & 120-B of IPC and Section 3(2) (v) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989, registered at Police Station- Singhanpuri Jungle, District Kabirdham (C.G.).
2. As per prosecution case, on 05.08.2014, Sushil Kumar, Sarpanch of Village Panchayat Kurwa (Khaira), lodged a merged intimation in police station stating that a person aged about 40 years was lying dead near canal, *Puliya-Chowk*. During investigation, appellant Dhanesh Patel has been arrested and on the basis of memorandum given by him, it was disclosed that he and

other co-accused persons hatched a conspiracy against the deceased for committing his murder and in furtherance thereof committed his murder. Therefore, offence has been registered against the present appellant and other co-accused persons.

3. Notice has been served upon the victim/complainant, but neither the complainant is present nor is there any representation on behalf of him.
4. Learned counsel for the appellant submits that the appellant is an innocent person and has been falsely implicated in the crime in question. He also submits that other co-accused persons namely Ramman Das Kosle, Prema Bai Kosle and Laxman have been granted regular bail by the co-ordinate bench of this Court vide order dated 29.09.2020 passed in M.Cr.C. No. 5299 of 2020. He submits that the appellant is in jail since 30.06.2020, charge-sheet has been filed and conclusion of the trial is likely to take some time, therefore, the appellant be released on bail.
5. On the other hand, learned counsel for the State opposes the appeal.
6. I have heard learned counsel for the parties.
7. Considering the facts and circumstances of the case, the material collected by the Investigating Officer, that on the basis of memorandum statement of the present appellant, only motorcycle which belongs to the appellant was seized from his possession, merged intimation lodged on 05.08.2014, F.I.R. lodged on 16.09.2019 against unknown person and the statements of Suraj Kosle, Reena Kosle & Ramman Nishad recorded in the year 2015 and thereafter the statements of Suraj Kosle, Reena Kosle, Ramman Nishad, Santosh Nishad, Nand Kumar Dahariya and other witnesses recorded on 30.06.2020, that the incident happened in the year 2014 and some of the statement of the witnesses recorded twice after long delay i.e. after six years of the incident and that the co-accused persons in this case have been granted regular bail by the co-ordinate bench of this Court, that the appellant

is in jail since 30.06.2020, charge-sheet has already been and 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 appellant. Accordingly, the appeal is allowed and the impugned order in relation to present appellant Dhanesh Patel is set aside.

8. It is directed that in the event of appellant executing a personal bond for a sum of Rs.25,000/- with one local surety in the like sum 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.

Sd/-
(Gautam Chourdiya)
Judge