

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

CRA No. 949 of 2020

1. Afzal Usmani @ Chottu S/o Shakeel Ahmed, Aged About 25 Years,
2. Shakeel Khan, S/o Late Abdul Jaheem, Aged About 58 Years,
3. Smt. Shyam Bai W/o Shri Naansay Vishwakarma, Aged About 46 Years,

All above are R/o. Ward No. 14, Lalpur Manchadoli, Police Station Bango, District Korba (C.G.).

----Appellants

Versus

1. State Of Chhattisgarh Through Police Station AJAK Korba, District Korba (C.G.).

---- Respondent

For Appellants : Shri Anshul Tiwari, Advocate.
For Respondent/State : Shri Dinesh R.K. Tiwari, Dy. Govt. Advocate.

Hon'ble Justice Shri Gautam Chourdiya
Judgment On Board

21/01/2021

- 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 19/11/2020 passed by the Special Judge (SC/ST Act), District Korba (C.G.), refusing to allow their regular bail under Section 439 Cr.P.C. The appellants are in jail since 19/11/2020 in connection with Crime No. 108/2020 for the offence punishable under Sections 452, 294, 506(B), 323 & 34 of Indian Penal Code and under Section 3(2)(v) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 registered at Police Station AJAK Korba, District Korba (C.G.).

- 2) Allegation against the present appellants are that on 23/06/2020 at about 08 PM when the prosecutrix was her home alongwith her husband, the appellants forcibly entered her house after breaking upon the door and started assaulting the prosecutrix with belt and axe. When the son of the prosecutrix came to the spot on being called by the prosecutrix and intervened in the matter, the appellants also assaulted him. It is alleged that the appellants filthily abused them and threatened of life. On report being lodged to the above effect, offence under the aforesaid section has been registered against the appellants.
- 3) Learned counsel for the appellants submit that the appellants are innocent persons and have been falsely implicated in this case. He submits that FIR has been lodged after 2 months of the incident on 19/08/2020 and no explanation has been offered therefor. He lastly submits that the appellants are in jail since 19/11/2020 and conclusion of the trial is likely to take some time. Therefore, the appellants be released on bail.
- 4) On the other hand, learned counsel for the respondent/State opposes the bail application.
- 5) Prosecutrix present in person today and raised objection to release of the appellants on bail.
- 6) Heard learned counsel for the parties.
- 7) Considering the facts and circumstances of the case, the fact that the detention period of the appellants and the fact that conclusion of trial is likely to take some time, that there is no apprehension of the appellants absconding or tampering with or influencing the witnesses, without commenting anything on merits of the case, this Court is of the opinion that present is a fit case for releasing the appellants on bail. Accordingly, the appeal is **allowed**. It is directed that in the event of **each** of the appellants 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, 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, and
- 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.

**-Sd/-
(Gautam Chourdiya)
Judge**

Chandrakant