

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.

CRIMINAL APPEAL NO. 117 OF 2022.

Rajvilas @ Vilas S/o. Gomaji Moon,
Aged About 47 years,
Occupation : Agriculturist,
R/o. Barbadi, Wardha, District Wardha.
(Presently at Distt. Prison Wardha) **APPELLANT**

----- **VERSUS** -----

1. State of Maharashtra,
Through P. S.O. Sawangi (Meghe),
District Wardha.
2. Nilesh Vasantraoji Hatmode,
Aged about 29 years,
Occupation - Student,
R/o. Paloti, Wardha. **RESPONDENTS**

Shri R. M. Daga, Advocate for the Appellant.
Ms M. A. Barabde, A.P.P. for the Respondent No.1/State.
Shri S. B. Gandhe, Advocate (Appointed) for the Respondent No.2.

**CORAM : V. M. DESHPANDE AND
AMIT BORKAR, JJ.**

DATE : 29.04.2022.

ORAL JUDGMENT : [PER : V. M. DESHPANDE, J.]

1. Heard Shri R. M. Daga, learned Advocate for the appellant, Ms M. A. Barabde, learned A.P.P. for the State and Shri S. B. Gandhe, learned Advocate for the respondent No.2 (original complainant).

2. **ADMIT.**

3. Taken up for final hearing.

4. This is an appeal under Section 14-A of the Schedule Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989. The cause for filing the present appeal by the present appellant, who is shown as accused No.2 in challan is that, when he filed an application for regular bail i.e. M.C.A.No.45/2022 was rejected by the learned Additional Sessions Judge, Wardha on 31.01.2022 in Crime No.601/2021 for the offences punishable under Sections 302, 201, 120B read with Section 34 of the Indian Penal Code and Sections 3(2)(v) and 3(2)(va) of the Schedule Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989.

5. At the outset, it would be useful to make reference that the Investigating Officer, who is Sub Divisional Police Officer, Wardha has already completed entire investigation and Final Report is already filed. There is no dispute that, the present appellant also belongs to a caste which is a Scheduled Caste. If that be so, surely, he can not be made accused for the offences punishable under the Atrocities Act. The deceased in this crime is one Vasanta. Initially, his wife on 06.10.2021 lodged a missing report and the deceased was not traceable. Initially, report was lodged against unknown person, however, subsequently the first informant raised grievance with the Investigating Officer that there was a dispute in between the

accused persons and his father and therefore, he has suspicion that they might have committed his murder.

6. The appellant was arrested on 13.10.2021 and since then he languishing in jail.

7. The charge sheet does not show that there was any Eye witness account in the prosecution case. The case is based on circumstantial evidence. The learned A.P.P. and the learned counsel for the respondent No.2 could not point out any circumstance which could lead that the deceased was lastly seen in the company of the present appellant.

8. Heard Ms M. A. Barabde, learned A.P.P. for the State and perused the reply filed by the prosecution.

9. The Investigating Officer has given a pictorial sequence of the entire incident as it could be seen in the running page 34 of this proceeding and page 25 of the challan. It shows that on 05.10.2021 at about 9 O'clock the deceased left his house and the accused No.1 and 3 caught him and seated him in their car and thereafter at about 9.45 near Aai Nagari Layout on Nagpur – Tuljapur road they committed the murder. It also shows that the car was then parked in front of the house of the accused No.1 and thereafter the present appellant came in picture and he assisted the accused No. 1

and 3 to dump the body in a well. Except that there are no allegations against the present appellant.

10. Since the investigation is already over, final report is already filed and looking to the nature of the evidence as collected during the investigation against the appellant, we are of the view that further custodial presence of the appellant is not necessary. Resultantly, we pass following order :

ORDER

- i] The appeal is allowed.
- ii] The order passed by the learned Additional Sessions Judge, Wardha dated 31.01.2022 in M.C.A. No. 45/2022 rejecting the application for bail filed on behalf of the appellant, is hereby quashed and set aside.
- iii] The appellant Rajvilas @ Vilas S/o. Gomaji Moon, who is in jail be released on bail in connection with Crime No.601/2021 for the offences punishable under Sections 302, 201, 120B read with Section 34 of the Indian Penal Code and Sections 3(2)(v) and 3(2)(va) of the Schedule Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989, on he executing P. R. Bond of

Rs.5000.- (Rs. Five Thousand Only) with one solvent surety in the like amount.

- iv] The appellant is directed to attend the Police Station, Sawangi (Meghe) once in three months and shall mark his presence.
- v] The appellant is also directed that he shall remain personally present on every date of hearing before the Trial Court.

With this, appeal is allowed and disposed of.

Shri S. B. Gandhe, learned counsel appointed by High Court Legal Services Sub Committee, Nagpur is entitled to receive his professional charges which is quantified at Rs. 5000/-.

JUDGE

JUDGE

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