

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

CRIMINAL APPEAL NO. 171 OF 2023

APPELLANT : Rahul @ Andha s/o Vasanta Chaware
Aged 21 years, Occ. Labour,
R/o Near the Shitlamata Mandir,
Itwara Bazar, Wardha,
Tahsil & District Wardha.
(Accused is in Amravati Central Jail since
28.9.2021)

V E R S U S

NON-APPLICANTS : 1. State of Maharashtra
Through Police Station Officer,
Police Station Wardha (City),
Tahsil & District Wardha.

2. Smt. Munnibai w/o Raju Madavi,
Aged about 48 years,
Occu. Housewife,
R/o Behind Agnihotri College,
Ramnagar Ramnagar, Itwarda, Wardha,
Distt-Wardha.

Mr. A.B.Shende, Advocate for appellant.
Mr. V.A.Thakre, Additional Public Prosecutor for respondent No.1.
Mr. N.R.Bhowtik, Advocate for respondent no.2.

**CORAM:- VINAY JOSHI AND
BHARAT P. DESHPANDE, JJ.**

DATED : 13/04/2023.

ORAL JUDGMENT : (PER VINAY JOSHI, J.) :

1. **Admit.** Heard finally with the consent of learned
counsel appearing for the parties.

2. This is an appeal under Section 14-A the Scheduled

Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 (for short, "SCST Act") challenging the order of rejection of regular bail dated 16.8.2022 passed by Additional Sessions Judge in Criminal Misc. Application No.293/2022, arising out of Crime No.1235/2021.

3. The appellant - Rahul @ Andha Chaware was arrested in Crime No. 1235/2021 registered with Wardha Police Station for offences punishable under Sections 302, 201, 120-B read with Section 34 of the Indian Penal Code read with Section 3(2)(v), 3(2) (va) of the SCST Act. The investigation is complete. The charge-sheet has been filed. The appellant has applied to the Trial Court for bail, however, the Trial Court has declined to exercise its discretion in releasing the appellant on bail during trial.

4. It is the appellant's contention that there is no material against the appellant to curtail his liberty. The allegations of actual assault are against two co-accused named in the FIR and statements of eye witnesses. The role assigned to the appellant is to the extent of disposing of dead body after occurrence. It is submitted that one of the co-accused namely Ravindra alias Ravindrasingh alias Kalu s/o Lakhansingh Juni has already been

released by this Court in Criminal Appeal No.293/2022.

5. The State as well as learned counsel appearing for informant resisted bail. It is submitted that though the appellant was not present at the time of actual occurrence, however, he has conspired with main accused for committing murder and, therefore, he does not deserve for bail.

6. With the assistance of both sides, we have gone through the entire police papers. It is nobody's case that the appellant was present at the time of actual assault. There are statements of two eye witnesses and a child witness, who has stated that the actual assault by means of knife was made by co-accused. None of them stated that the applicant was present on the spot. It is the prosecution case that soon after the occurrence the appellant was called from his residence and then he has assisted main accused in disposing dead body. To substantiate said contention, the prosecution has relied on the disclosure statement and consequential recovery of blood stained clothes of the appellant. However, there is no material to indicate that the appellant was seen by anybody while taking away dead body for disposal. Though the prosecution has shown antecedents against the appellant, however, considering his role in existing crime and

nature of evidence collected against him, we do not deem it appropriate to curtail his liberty.

7. Though the appellant is facing charge of criminal conspiracy, it is to be established in the trial by adducing relevant material. Merely, the appellant has partaked in disposing the dead body that by itself cannot be assumed as definite criteria for holding that he has conspired with co-accused. The investigation is complete. Charge-sheet has been filed. Therefore, we deem it fit to release him on bail by putting certain conditions so as to eliminate anticipated efforts of tampering the evidence. In view of above, we pass the following order.

(i) The appeal stands allowed.

(ii) The impugned order of rejection of regular bail dated 16.8.2022 passed by Additional Sessions Judge in Criminal Bail Application No.293/2022, arising out of Crime No.1235/2021 of Police Station Wardha City, Wardha is hereby quashed and set aside.

(iii) The appellant Rahul @ Andha S/o Vasanta Chaware be released on bail in Criminal Bail Application No.293/2022 of

Police Station, Wardha City, Wardha arising out of Crime No. 1235/2021 for offences punishable under Sections 302, 201, 120-B, read with Section 34 of the Indian Penal Code read with Section 3 (2) (v) and (3) (2) (va) of the SC ST Act, on his furnishing PR bond in the sum of Rs. 50,000/- with two solvent sureties in the like amount.

(iv) The appellant shall attend Police Station, Wardha City, Wardha on 1st day of every alternate month commencing from 1st May, 2023 between 11.00 a.m. to 12.00 noon and shall cooperate in the investigation.

(v) The appellant shall not enter the city limits of Wardha, till culmination of the trial except for attending the trial and the Police Station, Wardha City.

(vi) The appellant shall not tamper with the prosecution evidence and also shall not influence the prosecution witnesses.

[BHARAT P. DESHPANDE, J.]

[VINAY JOSHI, J.]

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Signed By: MUKUND
LAXMANRAO AMBULKAR
Private Secretary

Signing Date: 13.04.2023 16:32