



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

CRIMINAL APPEAL NO.304 OF 2023

Suresh Vyankati Chaudhari (In Jail),
aged about 68 yrs, Occ. Labour, R/o
Chistur, Tahsil Ashti, District Wardha.

... APPELLANT.

VERSUS

1. State of Maharashtra, through
Police Station Officer, Talegaon, Tah.
Ashti, Dist. Wardha.
2. Narmada Ramesh Wavare, aged-
major, R/o Chistur, Tah. Ashti, Dist.
Wardha.

... RESPONDENTS.

Shri S.W. Sambre, Advocate for the appellant.
Shri Thakare, A.PP. for the respondent/State.
Mrs. PR. Arbat, Advocate (appointed) for respondent no.2.

CORAM : VINAY JOSHI AND VALMIKI SA MENEZES, JJ.
DATED : 18.08.2023.

ORAL JUDGMENT : (Per : Vinay Joshi, J.)

Heard. **ADMIT.**

2. The matter is taken up for final disposal by consent of learned Counsel appearing for the parties.

3. This is an appeal under Section 14-A of the Scheduled Caste and Scheduled Tribe (Prevention of Atrocities) Act, 1989 ('the SC and ST Act') raising a challenge to the order of the rejection of bail dated 17.03.2023 passed by the Additional Sessions Judge, Wardha in Criminal Bail Application No.10 of 2023 relating to Crime No.216 of 2022 registered with the Talegaon Police Station, District Wardha for the offence punishable under Sections 302, 120B, 341, 506 of the Indian Penal Code ('IPC'), Sections 3(2)(va) and 3(2)(v) of the SC and ST Act.

4. The appellant has claimed bail on account of inadequacy of material, innocence, false implication, and particularly, on the ground of parity. The respondent/State as well as learned Counsel appearing for respondent no.2 resisted the bail pointing towards seriousness of the offence.

5. The facts in brief are that body of one Ramesh Wavare was found in the field in semi decomposed condition. The Police carried Marg inquiry in which initially daughter of the deceased had not expressed any suspicion. However, during inquiry, the wife of the

deceased, as well as some other had expressed suspicion against the appellant and co-accused. It is alleged that there was old dispute in between the deceased and the appellant on account of stealing of she goats. On the basis of said information, crime was registered.

6. The prosecution case is entirely based on circumstantial evidence. Co-accused Nilesh Chaudhari and Dhruvpal Sarode have been released on bail by this Court vide order dated 14.12.2022 in Criminal appeal Nos. 791 and 792 of 2022. We see no distinguishing feature against the appellant to carve out exception to deny the rule of parity. This Court has also considered the statements of one Amol Nehare, who has seen all three accused together prior to the occurrence. We have considered all other statements, but there is no evidence about the last seen together. Nothing is seized at the instance of the appellant. The prosecution itself stands on the footing of that on the suspicion.

7. The entire investigation is complete and charge-sheet has been filed. In absence of any distinguishing feature, the rule of parity would apply. Though the trial Court was made aware about the bail orders of co-accused however without assigning any reason or distinguishing feature, the trial Court has denied to invoke the rule of parity. Generally, the trial Court shall apply the rule of parity especially

when this Court has released co-accused. Of course applicability of rule of parity is a question of fact.

8. Having regard to the nature of material collected against the accused along with rule of parity, applicant deserves for bail, hence the following order :

- (a) The appeal is allowed.
- (b) We hereby quash and set aside the impugned order of rejection of bail dated 17.03.2023 passed in Misc. Criminal Bail Application No.10 of 2023 in Crime No.216 of 2022.
- (c) The appellant/accused Suresh Vyankati Chaudhari in connection with the Crime No.216 of 2022 registered with the Talegaon Police Station, District Wardha for the offence punishable under Sections 302, 120B, 341, 506 of the Indian Penal Code, Sections 3(2)(va) and 3(2)(v) of the Scheduled Caste and Scheduled Tribe (Prevention of Atrocities) Act, 1989 shall be released on bail on his furnishing P.R. bond of Rs.50,000/- with one or two sureties in the like amount to the satisfaction of the learned Special Judge.
- (d) The appellant/accused shall not make any attempt to influence or threaten the witnesses.
- (e) The appellant shall attend the Police station Talegaon, District Wardha on 20th day of every calender month from

11.00 a.m. to 2.00 p.m. till the conclusion of trial.

9. The appeal stands disposed of accordingly.
10. Fees of appointed learned counsel be paid as per Rules.

(VALMIKI SA MENEZES, J.)

(VINAY JOSHI, J.)

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