

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

CRIMINAL APPEAL NO. 378 OF 2023

APPELLANT : Mukesh s/o Ramsing Bethekar,
(In Jail) Age : 20 Years, Occu : Laborer,
R/o. Kotmi, Tq. Chikhaldara,
Dist : Amravati.

V E R S U S

RESPONDENTS :

1. State of Maharashtra
Through P. S. O. Chikhaldara,
Tq. Chikhaldara, Dist. Amravati.
2. Gondu s/o Ramsu Maraskkolhe,
Age : 50 Years, Occu : Labour,
R/o. Kotmi, Tq. Chikhaldara,
Dist. Amravati.

Shri D. S. Khushalani, Advocate for appellant.
Shri N. R. Rode, Additional Public Prosecutor for respondent No.1.
Ms. Deepali Sapkal, Advocate (Appointed) for respondent No.2.

CORAM:- VINAY JOSHI AND
VALMIKI SA MENEZES, JJ.
DATED : 19/07/2023.

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 of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989, raising a challenge to the order of rejection of regular bail in

Crime No.192/2022, registered with Police Station Chikhaldara, District – Amravati, relating to offences punishable under Section 302, 201, 376(D), 120(B) and read with Section 34 of the Indian Penal Code and Section 3(2)(v), 3(1)(w)(i)(ii) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989.

3. At the instance of report dated 12.09.2022 lodged by the Police Officer, a crime has been registered. Deceased girl aged 19 years went missing from her house on 17.08.2022. After two days i.e. 19.08.2022, her dead body was found floating in the Well water. The police have initially registered a murg report and conducted enquiry. During enquiry, the police have verified call details of the deceased. During enquiry, it was transpired that on 17.08.2022, deceased was in contact with the boys namely Jakir and Mukesh. The Sim Card of deceased was later on used by co-accused Jakir whilst appellant Mukesh and Amol have switched off their mobiles for few days. The police also came across that on 17.08.2022, the appellant and others were found roaming near the field where a dead body was found. The body was in decomposed condition, hence, initially the cause of death was not revealed. It was found in post-mortem examination that hyoid bone was depressed. Medical opinion was sought on which the possibility of throttling the deceased was surfaced. Therefore, police have

registered crime against three persons including appellant Mukesh for committing murder of deceased girl. The investigation was completed and charge-sheet has been filed. The appellant has applied to the trial Court for grant of regular bail, however, vide order dated 10.05.2023, the trial Court has declined to grant bail and therefore, this appeal.

4. The appellant has mainly claimed bail by invoking the principle of parity on account of release of co-accused Amol by this Court in Criminal Appeal No.54/2023 decided on 11/04/2023. It is submitted that the main allegations are against the co-accused Jakir, who is still behind bars. The role assigned to the appellant – Mukesh as well as Amol (released) are exactly same and thus, the appellant is also entitled for similar treatment.

5. Shri Rode, learned APP as well as Ms. Deepali Sapkal, learned counsel (appointed) for the informant though unable to point out any distinction in between the role of appellant and Amol. However, they would submit that considering the gravity of the offence, the appellant does not deserve for bail. Moreover, it is submitted that there are chances of tampering.

6. We have exhaustively dealt with the case of Amol on merits in our order dated 11/04/2023. We have considered the

statement of whiteness, Call Detail Records and having regard to the material pertaining to circumstantial evidence, we have released Amol on bail. Absolutely, there is no distinction in the role of appellant than Amol. Therefore, we see no reason to give different treatment to the appellant.

7. In view of the above, the appellant is entitled for bail on the ground of parity. Hence, the following order :-

ORDER

- i] Criminal appeal is allowed.
- ii] The impugned order of rejection of bail dated 10.05.2023, passed in Criminal Bail Application No.216/2023, is hereby quashed and set aside.
- iii] The appellant – Mukesh s/o Ramsing Bethekar shall be released on bail in Crime No.192/2022, registered with Police Station Chikhaldara, District – Amravati, relating to offences punishable under Sections 302, 201, 376(D), 120(B) and Section 34 of the Indian Penal Code and Sections 3(2)(v), 3(1)(w)(i)(ii) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989, on his furnishing P.R. Bond of Rs.25,000/- with one or two sureties in the like amount.

iv] The appellant shall not tamper the prosecution evidence in any manner.

v] The appellant shall attend the concerned Police Station on first Monday of each month in between 10:00 a.m. to 12:00 noon for the period of one year from today.

vi] The appellant shall provide his residential address and cell number to Investigating Officer.

8. The appeal stands disposed of in the above terms.
9. Fees of appointed counsel be paid as per rules.

[VALMIKI SA MENEZES, J.]

[VINAY JOSHI, J.]