



**IN THE COURT OF SPECIAL JUDGE, GONDIA.**

**SPECIAL CASE NO.181/2023.**  
**CNR No.MHGO010016652023.**

**THE STATE OF MAH. THROUGH PSO TIRORA.**

**VS.**

**CHHAYA MESHARAM AND OTHERS.**

**ORDER BELOW EXH.4.**

(Passed on 27<sup>th</sup> December, 2023)

Present application is filed by applicants/accused to release them on interim bail. Today, applicants/accused filed regular bail application at Exh.3 on which order is passed and say of concerns are called.

2. The charge-sheet against applicants/accused has been submitted and charges levelled against applicants/accused are under Sections 323, 504, 506 read with Section 34 of the Indian Penal Code and under Section 3(1)(r)(s) of The Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities), Act, 1989.

3. From the say of Learned APP, it reveals that, the offence is serious. If applicants/accused are released on bail, they may tamper the prosecution witnesses. Learned APP prayed to reject the application.

4. Necessary to mention here that, applicants/accused

were not arrested and notice was given to them under Section 41 of Cr.P.C. on 16/12/2023 and also intimation was given to them by concerned Investigating Officer and they were directed to remain present in the Court on today.

5. Applicants/Accused appeared before the Court and filed application for regular bail at Exh.3. As per Section 15(A)(5), it is necessary to call the say of complainant and also to hear him. As applicants/accused were not arrested, complainant is absent and in such circumstances it is not possible to issue the notice to complainant and call his say on today itself.

6. At the same time, the liberty of applicants/accused No.1 to 3 cannot be curtailed specially in a circumstances when they were not arrested by the concerned Investigating Officer and to whom notice under Section 41 of Cr.P.C. was issued.

7. From the say of Learned APP, it reveals that, according to him, if applicants/accused are released on interim bail, they will tamper the prosecution witnesses. I am rather surprised by the say of Learned APP. Investigating Officer did not think it necessary to arrest the accused, issue notice to them and ask them to remain present in the Court. However, Learned APP is opposing the application for the reason best known to him. If the say of Learned APP is accepted, Court is having no option except to send the applicants/accused behind bar that too who were not arrested during investigation and to whom the notice under Section 41-A of Cr.P.C. was issued. I am not at all impressed with the say of Learned APP.

8. Definitely, it will take some time to call the say of Investigating Officer, Learned APP and complainant. By that time applicants/accused cannot kept behind bar when they were not arrested. Some time is required for calling the say of concerns and to decide regular bail application of applicants/accused. In such circumstances, I think that following order would meets the ends of justice.

**ORDER**

1. Application at Exh.4 is allowed.
2. Applicants/Accused be released on interim bail till 03/01/2023.
3. Applicants/Accused to execute PB. and S.B. of Rs.15,000/- each.

Sd/-

Date:27.12.2023.

(N. D. Khose)  
Special Judge, **Gondia.**