

Sunil @ Sonya Popat Bhor.] ... Appellant /
Versus (Orig. Accused)

1. The State of Maharashtra.]
2. Dhananjay Dilip Aabnave.] ... Respondents

Mr. Aniket Nikam i/b Mr. Ashish Satpute for Appellant.
Mrs. M. M. Deshmukh,, APP for State - Respondent No.1.

**CORAM :- INDRAJIT MAHANTY &
SARANG V. KOTWAL, JJ.**

RESERVED ON :- FEBRUARY 20, 2019

PRONOUNCED ON :- FEBRUARY 22, 2019

P. C. :-

1. This is an Appeal is preferred by the Appellant under the provisions of Section 14A of The Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Amendment Act, 2015 (hereinafter referred to as 'the Atrocities Act') as his application for bail was rejected by the learned Additional Sessions Judge, Pune, on 18/01/2018 vide order passed in Criminal M. A. No.4112 of 2017.

2. The Appellant was arrested on 07/10/2017 in connection with C. R. No.913 of 2017 registered at Lonikand Police Station, District Pune, under Sections 307, 504 and 506 of IPC and under Section 3(1)(r), 3(2)(v), and 3(2)(va) of the Atrocities Act read with Sections 7(1)(d) of The Protection of Civil Rights Act, 1955. The investigation is over and the charge-sheet is already filed.

3. The prosecution case, in brief, is as under :

The FIR was lodged by the Respondent No.2 herein on 06/10/2017. He was working as a Teacher in a school at Wadebolhai, Taluka - Haveli, District - Pune. In his FIR, he has mentioned that in order to make the students and their parents aware of the routine disciplinary rules at the school, parents' meeting was kept on 04/10/2017. The students were also expected to attend the said meeting. At that meeting, the Appellant and his parents were not present. On 05/10/2017, the Appellant came to the school wearing a black cap. The first informant and another teacher Darshan Choudhary told him to improve his behaviour in the school. The Appellant was told to attend the classes after removing his cap. However, the Appellant got angry and did not attend the classes. On

06/10/2017 at around 8.15 a.m., there was a common assembly of the school in the ground. The Appellant was studying in 11th standard. He was absent. At about 8.45 a.m. when the students were proceeding towards their classes, the first informant stood behind the students. He was standing near the gate. At that time, the Appellant came from behind and assaulted the first informant with a sickle on his head, stomach and hands. The Appellant abused the first informant with reference to his caste. Darshan Sir came to his rescue but he was also assaulted. Thereafter, the Appellant ran away from the spot. The injured were admitted to Imax Hospital at Wagholi. The first informant was treated in the hospital. He lodged his FIR as mentioned earlier. The Appellant was arrested. The investigation was carried out and the charge-sheet was filed.

4. The charge-sheet contains statements of eye witnesses as well as the other injured Darshan Choudhary. They have fully supported the version of the first informant. The injury certificate of the first informant shows that he had suffered head injury on left side of highparietal region (10cm X 3cm X 2cm) and there were abrasions over forearm, left side of abdomen and back. There was a fracture of

left parietal bone. The injury certificate of Darshan Choudhary shows that he had suffered CLW over zygomatic area 5cm X 3cm X 2cm deep. After filing of the charge-sheet, the present Appellant filed application for bail being M.A.No.4112 of 2017 before the learned Additional Sessions Judge, Pune, which was rejected by the order dated 18/01/2018 as mentioned earlier.

5. We have heard Mr. Aniket Nikam, learned Counsel for the Appellant and Mrs. M. M. Deshmukh, learned APP for State.

6. The Respondent No.2 - the first informant - was served and he was present in this Court on 04/10/2018. The order passed by this Court on 04/10/2018 shows that he had stated before the Court that he did not wish to engage a lawyer and he would be assisting the learned APP. Thereafter, the matter was adjourned to 19/10/2018. After that, by the order dated 11/01/2019, this Court had directed the learned APP to inform the Respondent No.2 about the date of the hearing. On 18/01/2019, the learned APP submitted that, the police authorities had informed the Respondent No.2 and he had requested to adjourn the matter to 28/01/2019. On 01/02/2019, the learned

APP informed the Court that the Respondent No.2 had sent an email intimating that he was not able to attend the Court. Since then, the Respondent No.2 has not engaged any Advocate neither has he appeared to assist the learned APP or argue his case in person.

7. We have perused the charge-sheet and the statements of the witnesses as well as the medical papers. We have also perused the order whereby the Appellant's bail application was rejected by the learned Additional Sessions Judge, Pune.

8. Undoubtedly, the charge-sheet contains the statements of the injured witnesses including the first informant and other eye witnesses. The medical injury certificates support their case. The medical certificates show that the first informant had suffered fracture of the skull. Therefore, it cannot be disputed that the offence is serious and there is material against the Appellant. However, today we are only considering the question of grant of bail to the Appellant. The Appellant is in custody since 07/10/2017. The Appellant is a young man of 19 years of age. The Appellant was studying in 11th standard. Taking into consideration his prolonged pre-trial detention

and the fact that he is a student, we are inclined to approach the case with a lenient view. The trial will take its own course which is not even started. The major offence is under Section 307 of the IPC. The first informant is employed in another institution. The offence has not escalated any further. The guilt of the Appellant may be established at the end of the trial and the law will take its own course. However, at this stage, the Appellant's continued pre-trial detention in custody is not necessary. The investigation is over and the charge-sheet is already filed. On enquiry, the learned APP submits that there are no criminal antecedents against the present Appellant. Therefore, at this stage, we are inclined to release the Appellant on bail on stringent conditions. Hence, the order.

ORDER

- (i) The Appellant is directed to be released on bail on his furnishing a P.R. bond in the sum of Rs.25,000/- (Rupees Twenty Five Thousand Only) with one or two sureties in the like amount.
- (ii) The Appellant shall attend Lonikand Police Station between 10.00 a.m. to 12.00 p.m. on every Sunday.

- (iii) The Appellant shall not leave the jurisdiction of Taluka Haveli, without permission of the trial Court.
- (iv) The Appellant shall not tamper with the evidence and shall not try to influence any of the witnesses related to this case in any manner.
- (v) The Appellant shall continue taking education. He shall furnish proof of attendance in such educational institution where he enrolls himself, to the Investigating Officer once in every three months.
- (vi) The Appeal is disposed of in the aforesaid terms.

(SARANG V. KOTWAL, J.)

(INDRAJIT MAHANTY, J.)