

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

CRIMINAL APPEAL NO. 245 OF 2020

Jigar S/o. Rajesh Kanojiya,
Aged about 22 years, Occ.: Labour,
R/o. Gahu Hiwara Chowk, Kanhan,
Tah. Parshioni, Distt. Nagpur.
(Presently Central Prison at Nagpur)

.... **APPELLANT.**

// VERSUS //

- 1) The State of Maharashtra,
Through P.S.O., Police Station,
Kanhan, Distt : Nagpur.
- 2) Siddharth S/o. Santoshrao Pagare,
Aged about 49 years,
R/o. Radhakrushna Nagar, Kanhan,
Tah. Parshioni, Distt. Nagpur.

.... **RESPONDENTS.**

Shri C.R.Thakur, Advocate for Appellant.
Shri M.K.Pathan, A.P.P for Respondent No.1/State.
None for Respondent No.2.

CORAM : Z.A.HAQ AND AMIT B. BORKAR, JJ.
DATED : SEPTEMBER 07, 2020.

ORAL JUDGMENT : (Per : Z.A.Haq, J.)

1. Heard learned Advocate for the appellant and the learned A.P.P.
for the Respondent No.1/State.

Office note shows that the respondent No.2 (informant) is served with the notice of this appeal on 31st August 2020. None appears for the respondent No.2.

2. **ADMIT.**

3. Crime No.753/2019 is registered against four persons which include two minors/juvenile in conflict with law. The crime is registered with the respondent No.1-Police Station for the offences punishable under Sections 307, 341, 506 read with Section 34 of the Indian Penal Code and Section 3(2)(v) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989. The appellant had earlier filed application under Section 439 of the Code of Criminal Procedure before the trial Court which was rejected and the appeal challenging that order was withdrawn as during pendency of the appeal before this Court, charge-sheet came to be filed and the appellant intended to approach the Sessions Court again.

4. The application filed by the appellant under Section 439 of the Code of Criminal Procedure after filing of the charge-sheet is rejected by the impugned order.

5. According to the investigating agency, the four persons against whom crime is registered, assaulted the victim causing injuries on abdomen, thigh and arms by knife. The informant reported that the co-accused Rohit Kanojiya had given a blow to the victim on his abdomen by knife and then the appellant took the knife from the co-accused Rohit and assaulted the victim on thigh.

6. The prayer of the appellant for directions to the respondent No.1 to release the appellant on bail is opposed on the ground that the statements of eyewitnesses show the involvement of the appellant in commission of the crime.

7. With the assistance of learned Advocate for the appellant and learned A.P.P., we have examined the material placed on record in the form of charge-sheet.

8. The appellant claims that he is not involved in any other offence and any other crime is not registered against him. The appellant is aged about 22 years and claims to be a labour. These facts are not controverted by the respondent No.1-Investigating Agency.

The investigation is complete and charge-sheet is filed. The respondent No.1-Investigating Agency has not been able to point out that further custody of the appellant is required.

9. Considering the facts of the case, we are of the view that the appellant deserves to be released on bail, however, on conditions as imposed by this order.

10. Hence, the following order:

- i) The impugned order is set aside.
- ii) The appellant, having been arrested in connection with Crime No.753 of 2019, registered with respondent No.1 Police Station, he be released on bail on depositing cash security of Rs.Twenty Five Thousand and two solvent sureties in the like amount.
- iii) The amount of cash security be deposited before the Sessions Court. The order regarding disbursal of this amount shall be passed by the Sessions Court at the conclusion of the trial.
- iv) The appellant shall attend the sessions trial on each and every date unless granted exemption by the Sessions Court.

The appeal is **allowed** in the above terms.

(P.T.O.)

CRI. APPLN. NO. 286/2020.

In view of disposal of the appeal, the application praying for grant of time to file certified copies of the impugned order, bail application and say of APP does not survive, hence, it is **disposed**.

(AMIT B. BORKAR, J)

(Z.A.HAQ, J)

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