

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

CRIMINAL APPEAL NO. 69 OF 2021

Suraj @ Datta S/o Narsingh Bhingole

Age: 19 Years, Occu.: Labour

R/o. Deshpande Galli, Latur,

Tal. & Dist. Latur

... Appellant

Versus

1. The State of Maharashtra
Through Gandhi Chowk Police Station,
Latur, Tq. & Dist. Latur.

2. Santosh S/o. Piraji Bijapure (died)
(Complainant / informant)

3. Sulabai W/o Piraji Bijapure
Age : 65 Years, Occu.: Labour,
R/o. Deshpande Galli,
Kumbhar Chowk, Latur.

... Respondents

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Mr. K.T. Jamdar, Advocate for the Appellant

Mr. G.O. Wattamwar, APP for Respondent No.1 / State

Mr. M.S. Deshmukh, Advocate h/f Mr. U.L. Momale, Advocate for
Respondent No.3

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**CORAM : V. K. JADHAV AND
SHRIKANT D. KULKARNI, JJ.**

DATE : 23rd AUGUST, 2021

PER COURT:-

1. The appellant is seeking regular bail in connection with Crime No. 303/2020 registered with Gandhi Chowk Police Station, Latur for the offence punishable under Sections 302, 323, 324, 504, 506, 307 read with Section 34 of the Indian Penal Code (for short, "IPC") and

under Section 3(2)(v) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities Act), 1989. His application below Exh. 8 with similar prayer in Special Case (Atro.) No.74 of 2020, came to be rejected by the learned Additional Sessions Judge-2 & Special Judge, Latur by order dated 21.01.2021. The appellant has preferred this appeal in terms of the provisions of Section 14-A(2) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989.

2. Learned counsel for the appellant-accused submits that it is a case of single blow. The deceased and the appellant were neighbours. As per the allegations made in the complaint, the incident had taken place on account of some trifling reasons and in consequence thereof, the mother of the appellant had given a blow of a brick on right eyebrow of the deceased and the appellant allegedly gave a blow of iron rod on his left parieto temporal region. The learned counsel submits that initially the crime was registered under Sections 324, 323 of IPC on the basis of the complaint lodged by the deceased himself on 15.09.2020, for the incident dated 18.07.2020. Subsequently the charge under Section 307 of the IPC was added. Learned counsel submits that the deceased was admitted in the Hospital and subsequently he got discharged after the period of one week and because of certain complications, he died on 25.10.2020.

The appellant-accused is in Jail in connection with the crime since 17.10.2020. Learned counsel submits that the appellant is innocent person and labour by occupation. There are no antecedents. The appellant is ready to abide by the terms and conditions as imposed by this Court including the condition as not to enter within the limits of Latur city till conclusion of the trial.

3. Learned counsel for respondent no.3 – mother of the deceased submits that the deceased while under treatment, had lodged the complaint attributing therein a specific role to the appellant in particular. The appellant had used iron rod and caused the injury on the left side of head at upper side of ear of the deceased. The deceased had sustained injury on the left parietotemporal region. Learned counsel submits that the consequence of the head injury are always serious and in view of the same, certain complications came to be developed even though the deceased came to be discharged from the Hospital. Learned counsel submits that even the statement of respondent no.3 came to be recorded during the course of investigation, where she had narrated the plight of her deceased son. According to her, her deceased son was not in a position to move or talk when he was discharged from the Hospital and started taking treatment as outdoor patient from the house. The learned counsel

submits that the allegations are serious in nature. The appellant may not be released on bail.

4. Learned APP submits that though there are no antecedents, however, if the appellant is released on bail, there is every possibility of tampering with the prosecution evidence. *Prima facie* there is a strong case against the appellant-accused. It is for the trial Court to find out as to whether the case falls under Section 304 of IPC in terms of exceptions as narrated in Section 300 of the IPC. Learned APP submits that the appellant-accused is not entitled to be released on bail. In the event, if the appellant is released on bail, stringent conditions may be imposed including, not to enter within the limits of Latur city.

5. The appellant was 19 years of the age on the date of incident. It appears that the incident had taken place on account of some trifling reasons. The deceased and the appellant were the neighbours. The incident had taken place on the ground that the mother of the appellant was extending beating to the sister of the deceased who is mentally retarded. During the quarrel, the mother of the appellant Meerabai, who is original accused no.2 had given a blow of brick on the right eyebrow of the deceased and the appellant-accused had given a blow of iron rod on the left temporal

region of the deceased. It is a case of single blow. Initially, the complaint though belatedly filed, the crime was registered for the offence punishable under Sections 324 and 323 of the IPC. However, considering the nature of the injury, it was converted into Section 307 of the IPC. Though the incident allegedly took place on 18.07.2020, the complaint came to be lodged for the first time after a considerable gap i.e. on 15.09.2020. Though the deceased got discharged from the Hospital on 26.07.2020 from Lokmanya Hospital, Latur, however, he again came to be admitted in Apex Hospital, Latur on 03.09.2021. The deceased died on 25.10.2020 i.e. almost after three months and some odd days. The incident allegedly took place on 18.07.2020.

6. We have also gone through the postmortem report. The concerned Doctor, who has conducted the postmortem, has given the cause of death as “due to complications following head injury”. We have also carefully perused column 19 about the Internal Examination. However, we do not find any fracture on the skull or any serious damage to the brain. The appellant is labour by occupation. There are no antecedents. Thus, we are inclined to release the appellant on bail by imposing certain conditions including the condition to restrain his entry within the limits of Latur city to avoid tampering of the evidence. Hence, the following order :-

ORDER

(i) Criminal Appeal is hereby allowed.

(ii) The appellant/original accused Suraj @ Datta S/o Narsingh Bhingole in connection with Crime No. 303/2020 registered with Gandhi Chowk Police Station, Latur for the offence punishable under Sections 302, 323, 324, 504, 506, 307 read with Section 34 of the Indian Penal Code and under Section 3(2)(v) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities Act), 1989, be released on furnishing P.R. bond of Rs.25,000/- with one solvent surety on the following conditions :-

(a) The appellant shall not tamper with the prosecution evidence in any manner.

(b) The appellant shall not enter within the limits of Latur city till conclusion of the trial, except for attending the Courts dates.

7. Criminal Appeal is accordingly disposed of.

[SHRIKANT D. KULKARNI]
JUDGE

[V. K. JADHAV]
JUDGE

S.P. Rane