

***IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION***

CRIMINAL APPEAL NO. 75 OF 2022

Vitthal Mohan Dhotre

... Appellant

Versus

The State of Maharashtra and Anr.

... Respondents

...

Mr. Jaydeep Mane a/w Ms. Vilasini B., for the Appellant.

Mrs. M.M. Deshmukh, A.P.P. for the Respondent-State.

Mr. Surel Shah, Advocate (Appointed) for respondent No.2.

...

***CORAM : REVATI MOHITE DERE &
SHARMILA U. DESHMUKH, JJ.***

DATE : AUGUST 23, 2022

ORDER : (Per : SHARMILA U. DESHMUKH, J,) :

1. By this appeal, preferred under Section 14-A of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 (for short, “SC ST Act”), the appellant seeks quashing of the impugned order passed by the learned Special Judge, Barshi dated 12.12.2021 below Exh.4 in Special Case No.56 of 2011 and seeks his enlargement on bail in connection with CR No.716 of 2021, registered with the Karmala Police Station, for the alleged offences

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punishable under Section 302 of the Indian Penal Code (for short, “IPC”) and under Section 3 (2) (v) of the SC ST Act.

2. Heard Mr. Jaydeep Mane, learned Counsel appearing for the appellant; Mrs. M.M. Deshmukh, learned APP for the respondent No.1-State and Mr. Surel Shah, learned appointed Advocate for respondent No.2.

3. Perused the papers with the assistance of the learned counsel for the parties.

4. The FIR came to be lodged on 02.08.2021 at the instance of the brother of the deceased against unknown persons. The first informant has stated that Mahesh Rajendra Shinde (Deceased), was doing the work of fishing at Ujani Dam; that before his death, the deceased was residing in the agricultural field of Hiware, situated near the Ujani Dam; that the Appellant - Vitthal Mohan Dhotre had a dispute with the deceased over the fishing work and that the Appellant used to damage the fishing-nets of the deceased. The first informant has further stated that on 01.08.2021, the deceased had informed him that the Appellant was jealous with the deceased due to the fishing

work; that on 01.08.2021 at around 9:30 a.m., the deceased left towards Ujani Dam on his motorcycle; that on 02.08.2021 at about 5:15 a.m., the first informant came to Ujani Dam, and upon opening the door of the tin-shed, where the deceased used to reside, found the deceased lying unconscious in a pool of blood; that he found a huge wound on the forehead of the deceased; that immediately he informed the police and the victim was taken to the hospital, where he was declared dead.

5. A perusal of the statement of wife of the Appellant -Kajal Vitthal Dhotre dated 02.08.2021, reveals that she had a love affair with the deceased, and that the accused was suspicious about her, and, that there was dispute between her and the appellant. It is further alleged by her that on 01.08.2021 at about 12:30 to 1:00 p.m., the Appellant came home and after having meal went out of the house and returned after some time; that when the appellant returned back, she noticed that he was in frightened state of mind and there was blood on his feet; that he told her that he is feeling unwell and he wants to go to the clinic and thereafter, the appellant alongwith his wife and child left Sanghvi for the purpose of going to the clinic; that when they

reached Kandar Village she told the Appellant that there is a clinic in this village; however the Appellant dropped his wife and child at his relatives house at Nimgaon and left for purchasing medicines; that thereafter, the appellant did not return and his phone was also switched off.

6. There is recovery of bloodstained clothes and wooden stick at the instance of the appellant under Section 27 of the Evidence Act, from a small shed adjacent to the appellant's house and recovery of a stone and mobile of the deceased from the Ujani Dam, also at the instance of the Appellant. The CA report shows human blood on the wooden stick and the appellant's clothes.

7. The prosecution case rests on circumstantial evidence. The motive for the offence is, *prima facie*, clear from the statement of the wife of the appellant. There is also recovery of the bloodstained clothes and a wooden stick from a place adjacent to the house of the Appellant, which is within the personal knowledge of the Appellant, and recovery of the deceased's mobile, also at the instance of the appellant. The conduct of the appellant in dropping his wife and

daughter at the residence of his relatives and fleeing therefrom, *prima facie*, also supports the case of the prosecution.

8. Considering the aforesaid, *prima facie*, the complicity of the appellant is evident in the said case. The possibility of the appellant tampering with the evidence also cannot be ruled out. In our opinion, the appellant is not entitled to be enlarged on bail. Accordingly, we pass the following order.

:: ORDER ::

The Criminal Appeal is dismissed and stands disposed of accordingly.

SHARMILA U. DESHMUKH, J.

REVATI MOHITE DERE, J.