

Gaurav Mahesh Naidu ...Appellant
Versus
The State of Maharashtra and Anr. ...Respondents

Mrs. P.P.Shinde, A.P.P for the Respondent-State.

CORAM : REVATI MOHITE DERE &
SHARMILA U. DESHMUKH, JJ.
DATE : 30th AUGUST, 2022

PC. :

1. Heard learned Counsel for the parties.
2. By this appeal, preferred under Section 14-A of the Scheduled Caste and Scheduled Tribe (Prevention of Atrocities) Act, the appellant seeks his enlargement on bail in connection with C.R. No. 896 of 2021 registered with the Wakad Police Station, Pune, for

the alleged offences punishable under Sections 307, 326, 504, 506 of the Indian Penal Code; under Sections 3(1)(r)(s), 3(2)(v), 6 of the Scheduled Caste and Scheduled Tribe (Prevention of Atrocities) Act; under Sections 37(1), 135 of the Maharashtra Police Act; under Section 7(1)(d) of the Protection of Civil Rights Act; and, under Section 4(25) of the Arms Act.

3. Learned Counsel for the appellant submits that there is no iota of evidence to connect the appellant with the alleged offence. He submits that neither the injured nor the eye-witnesses have named the appellant in their statements. He further submits that even the Test Identification Parade has not been conducted nor there is any recovery at the instance of the appellant. Learned Counsel submits that the appellant, aged 22 years, is languishing in custody since 26th August, 2021.

4. Learned APP as well as learned Counsel appearing for the respondent No.2 do not dispute the fact, that the appellant's name does not find place either in the FIR nor in the statements of the eye-

witness/injured.

5. Perused the papers with the assistance of the learned Counsel for the parties. According to the complainant – Mayur Jadhav, he alongwith his brother were in the business of providing internet service throughout the city, under the name and style ‘Microscan Orange Broadband Pvt. Ltd.’ At Wakad, Pune. The complainant – Mayur has alleged that on 26th August, 2021 at about 2.00 p.m., when he was not in his office, accused No.1 - Sumit Bhumkar, accused No.3 – Pratik Lokhande with whom, he was acquainted, came to his office and started abusing him in filthy language and that the said persons also hurled castiest abuses. The said persons are also alleged to have threatened the office staff. The said incident was reported by the complainant to his Director - Sandeep Donde, on phone. The complainant-Mayur has further alleged that on the same day, at about 3.00 p.m., accused No.1 - Sumit alongwith his brother Yogesh telephoned him and asked him to come at the Maruti Mandir Chowk, pursuant to which, he and his brother reached the said chowk. He has further alleged that accused No.1 -

Sumit and accused No.2 – Prateek again abused in filthy language and hurled castiest abuses and threatened them with dire consequences for carrying out business in their vicinity.

6. According to the complainant-Mayur, on 18th October, 2021, at about 1.30 p.m., when he alongwith his friends Pratik Salunkhe and Vishal Wakadkar were sitting, he saw accused No.1 - Sumit arriving at the spot. Sumit is stated to have been armed with a scythe. Accused - Sumit is stated to have accompanied by accused No.2 - Prateek Lokhande. Accused – Prateek is alleged to have been armed with a knife. One unknown person is also stated to be present, armed with a hammer. The complainant has alleged that accused No.2 – Prateek held him and assaulted him with a knife and accused No.1 – Sumit tried to assault him with a scythe on his head, however, when he dodged the said assault, he received a blow on his shoulder. The unknown person is stated to have assaulted the complainant with a hammer on his head.

7. A perusal of the injury certificate, which is on page 131 of

the aforesaid appeal, shows that the complainant sustained an injury in his abdomen and a blunt trauma on his head.

8. According to the prosecution, the said unknown person was the appellant. Admittedly, none of the witnesses including the injured have named the appellant as the assailant, who assaulted the complainant with the hammer. Neither, the Test Identification Parade was held as a result of which the appellant could not be identified as being the same person, who assaulted the complainant with a hammer. There is no recovery at the instance of the appellant. The appellant, aged 22 years is in custody since 26th October, 2021.

9. Considering what is observed hereinabove, the appeal is allowed and the impugned order dated 26th April, 2022 passed by the Special Judge (Cases under SC/ST (PoA) Act, and Additional Sessions Judge, Pune, below Exhibit – 6 in Special Case No. 991 of 2021 is quashed and set aside and the appellant is enlarged on bail on the following terms and conditions;

ORDER

(i) The Appeal is allowed.

(ii) The appellant is directed to be released on bail, on executing PR Bond in the sum of Rs. 15,000/- with one or two sureties in the like amount;

(iii) The appellant shall inform his latest place of residence and mobile contact number immediately after being released and/or change of residence or mobile details, if any, from time to time to the Court seized of the matter and to the Investigating Officer of the concerned Police Station;

(iv) The appellant to cooperate with the conduct of the trial and attend all the dates before the trial Court, unless exempted.

10. The Appeal is disposed of in the aforesaid terms.

11. All concerned to act on the authenticated copy of this order.

SHARMILA U. DESHMUKH, J.

REVATI MOHITE DERE, J.