

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH AT NAGPUR

CRIMINAL APPEAL NO.293/2022

Ravindra alias Ravindrasingh alias Kalu
s/o Lakhansingh Juni, aged 26 years,
Occ. Pvt. Work, r/o Karla Chowk,
Hanuman Gad, Giripeth, Piprimeghe,
Wardha (At Present District Prison,
Wardha)

.....APPELLANT

...V E R S U S...

1. State of Maharashtra through
Police Station Officer, City Police Station
Wardha City, Vide Crime No. 1235/2021
2. Smt. Munnibai w/o Raju Madavi
aged about 48 years, r/o Behind
Agnihotri College, Ramnagar, Wardha,
Dist. Wardha, Itwara Wardha. **...RESPONDENTS**

Mr. A. K. Bhangade, Advocate for appellant.
Mr. M. K. Pathan, A.P.P. for respondent no.1.

CORAM:- ROHIT B. DEO & ANIL L. PANSARE, JJ.
DATED :- 08.09.2022

JUDGMENT (Per: Anil L. Pansare, J.)

Heard. Admit. Heard finally by consent of learned
counsel for the parties.

2. The appellant has put forth following prayer:

“(i) Allow the Appeal, quash and set aside the Impugned Order dated 07.03.2022 passed by the Additional Sessions Judge, Wardha, in Criminal Bail Application No.83/2022 (Ravindrasingh -vs- State of Maharashtra) arising out of Crime/FIR No.1235/2021 of Police Station, Wardha City, Wardha.

(ii) Release the Appellant/Applicant u/s 143, 147, 148, 302, 201, 120-B, 506, 34 of the I.P.C. and Sections 3 (2) (v), 3(2)(va), 3(1)(w)(i)(ii) and 3 (1) (a) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 arising out of FIR No./Crime No. 1235/2021 Police Station, Wardha City, Wardha.”

3. Briefly stated, the case of the prosecution is that on or about 27.09.2021, the appellant and his associates have committed murder of one Shubham Madavi. The reason being old enmity. As such, Shubham and his brother were arrested for committing murder of one Rohit Bais. Both were in jail. Shubham was released on bail some days prior to the the incident. On 25.09.2021, Shubham went to meet the relatives of deceased Rohit Bais and their companions to sort out the matter once and for all. However, he did not return back. On 27.09.2021, Shubham's, father came to know that

one body was lying in Nala at Visava Chowk and the body has been taken to the General Hospital, Wardha. He reached hospital and identified body to be of his son Shubham. There were several injuries on his body. Accordingly, he lodged the report. The offence came to be registered vide crime no.1235/2021 for the offences punishable under Sections 143, 147, 148, 149, 302, 201 of the Indian Penal Code (For short, 'The IPC').

4. It is further the case of the prosecution that during the course of investigation, involvement of the relatives of Rohit Bais and others was revealed. The appellant is said to be one of the culprits. The role assigned to the appellant is of aiding and abetting the murder. According to the prosecution, the bottle glass found at the spot was having finger prints of the appellant. The appellant came to be arrested on 30.09.2021. One knife and T-Shirt with blood stains have been recovered at his instance under Section 27 of the Indian Evidence Act. The expert's opinion would indicate that 35 injuries were sustained by the deceased and

those were possible with the said knife. The investigating agency has also recovered one mobile and a motorcycle from the appellant, which is allegedly used for getting co-accused Nayan at the spot. The motorcycle belongs to the appellant.

5. According to the prosecution, there are eye witnesses to the incident, one of whom is Ashish. He has stated that he, along with prime accused, Immu alias Imran and appellant were present at the spot. The prime accused Immu alias Imran and Rahul Chaware have stabbed Shubham by knife. The appellant was asking for his (Ashish) help to remove body of Shubham, but he got frightened and left the spot. The other eye witness has stated that the appellant has handed over his motorcycle to said witness to bring the co-accused Nayan. The witness then stated that after committing murder of Shubham by co-accused, his dead body was removed to the road side by the present appellant.

6. Learned Advocate for the appellant contended that the prosecution version is absolutely incorrect. In any case, he submits that the appellant has not assaulted Shubham.

None of the eye witnesses have identified knife allegedly recovered at the instance of appellant to be the same as used by prime accused to stab Shubham. The allegations at the most would attract ingredients of offence punishable under Section 201 of the IPC viz causing disappearance of the evidence. Accordingly, he criticized the order of the trial Court, which has opined that appellant has actively participated in the crime.

7. Learned A.P.P has submitted the impugned order on the ground that the witnesses have disclosed the role played by the appellant, which clearly establishes that he has aided and abetted the crime.

8. Having considered the rival submissions, what transpires is that a knife has been recovered at the instance of the appellant. None of the witnesses, however, identified the said knife to be the same as has been used by the prime accused to stab Shubham. The opinion of the expert that the injuries on the person of Shubham could be caused by such knife, by itself may not be sufficient to infer that the said

knife was used to stab Shubham as there can be many such knives available. Admittedly, none of the witnesses have stated that the appellant has inflicted any injury to Shubham.

9. The other witness has stated that the appellant has removed the body to the roadside. This act will have to be tested during trial as the witnesses who have seen the incident were also present along with appellant at the scene of the crime. Similarly, use of motorcycle of the appellant to bring co-accused Nayan cannot be of much significance at this stage for the reason that the witness has not attributed knowledge to the appellant of the purpose of getting him at the spot. The witnesses, appellant and prime accused appear to be friends.

10. Thus, mere presence of the appellant at the spot or to hand over his motorcycle to get co-accused cannot be equated with the role played by the prime accused. It is not the case of the prosecution that the appellant is the one who was in inimical terms with the deceased. The appellant is in jail from 30.09.2021, it will take time to commence and

conclude the trial. It is the submission of the learned A.P.P. that the appellant may threaten and tamper with the prosecution witnesses. However, the appellant can be put to appropriate terms to ensure that the prosecution witnesses will not be tampered or threatened by the appellant.

11. In the circumstances, considering the role assigned to the appellant and considering that the trial may not commence in near future, we find this case to be a fit case to release the appellant on bail. The trial Court has erroneously held that the appellant has played active role. Hence, we proceed to pass the following order.

ORDER

- (i) The appeal is allowed.
- (ii) Judgment and order dated 07.03.2022 passed by Additional Sessions Judge, Wardha in Criminal Bail Application No. 83/2022 is quashed and set aside.
- (iii) Appellant-Ravindra alias Ravindrasingh alias Kalu s/o Lakhansingh Juni, be released on bail in connection with Crime No.1235/2021, registered with Police Station, Wardha City, Wardha for an offence punishable under sections 143, 147, 148,

302, 201, 120-B, 506 read with Section 34 of the Indian Penal Code and Sections 3 (2) (v), 3(2) (va), 3(1)(w)(i)(ii) and 3(1)(a) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989, on he executing P.R. Bond in the sum of Rs.50,000/- with two solvent sureties in the like amount.

(iv) The appellant shall attend Police Station, Wardha City on 15th of every alternate month commencing on 15th October, 2022 between 11.00 a.m. to 12.00 noon and shall cooperate in the investigation.

(v) The appellant shall not enter the city limits of Wardha, till culmination of the trial except for attending trial and the Police Station, Wardha City.

(vi) The appellant shall not tamper with the prosecution evidence and also shall not influence the prosecution witnesses.

(Anil L. Pansare, J.)

(Rohit B. Deo, J.)

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