

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

CRIMINAL APPEAL NO.517 OF 2022

[Rohit s/o Mohan Gaikwad .vs. State of Maharashtra and one]

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Shri U.J. Deshpande, Advocate for Appellant,
Ms. M.H. Deshmukh, APP for Respondent No.1-State,
Shri Samir S. Das, Advocate for Respondent No.2.

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Coram : Vinay Joshi and
Mrs. Vrushali V. Joshi, JJ.

Date : 18/10/2022.

Heard.

2. This is an appeal under Section 14-A of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 raising a challenge to the order dated 13.12.2021 passed by the learned Additional Sessions Judge, Akola by which regular bail was came to be rejected. The bail is claimed on the ground of innocence, false implication, inadequacy of evidence and appellant's readiness to stay out of the vicinity.

3. The State as well as the learned counsel appearing for respondent no.2-victim strongly resisted to release the appellant on bail. It is argued that there is ample material to indicate that the appellant was present on the spot and had facilitated the commission

of offence which is of serious nature. At the instance of report lodged by the brother of victim crime was registered. It is his contention that the deceased on the earlier day has informed that he had a quarrel with three persons including the appellant Rohit Gaikwad. He stated that on the date of incident he was telephonically informed by one Kuttu that three persons namely Soham Gaikwad (accused no.1), Rajkumar (accused no.3) and one another were quarreling with the deceased in which co-accused Soham inflicted knife blows on the chest of the deceased. The police have completed the investigation and charge-sheet has been filed.

4. With the assistance of both the sides, we have gone through the statements of some of the eyewitnesses. Particularly we have perused the statement of Kuttu, who stated about the occurrence. It is his statement that at the relevant time, co-accused Soham, applicant Rohit, who is nephew of Soham, one Rajkumar have assaulted the deceased by means of knife. Likewise, another eyewitness Kapil stated that all the three witnesses had quarreled with the deceased in which co-accused Soham inflicted repeated knife blows on the chest of deceased whilst others caught hold him.

5. There are statements of some other witnesses who says that soon after the assault, all three left the place by motorcycle, particularly appellant Rohit

was riding motorcycle while co-accused Soham was brandishing knife stained with blood and three left the place.

6. Learned counsel for appellant Shri Deshpande submitted that the principal allegations of assault by knife are against co-accused Soham. We find that one of the eyewitness stated that all three have beaten, however, there is consistency on the point that co-accused Soham dealt knife blows. It reveals that all the witnesses have specifically stated about the presence of the appellant Rohit on the spot. Not only that it is alleged that Rohit has facilitated the commission of crime by assisting the main accused. It reveals that as per the informant's case, one day prior to the occurrence, there was a quarrel of accused with the deceased. The postmortem report discloses that there were three incise stab wounds on the person of the deceased and out of which, injury no.1 was proved to be fatal. *Prima facie*, it discloses that there was a prior quarrel. The evidence is consistent on the point of presence of appellant and his active role in facilitating the main accused. Needless to say that if the prosecution succeeds in proving prior meeting of mind then irrespective of specific act of appellant, he is equally responsible for the offence alleged. The offence is of serious nature. We find that three persons accosted deceased and killed him by inflicting knife

blows. There is specific material against the applicant. We do not find it appropriate to enlarge applicant on bail, therefore, appeal stands **dismissed**. The above observations are made for the purpose of this appeal which has no impact on the merits of the case.

(Mrs. Vrushali V. Joshi, J.)

(Vinay Joshi, J.)

Gulande