

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

CRIMINAL APPEAL NO. 275 OF 2023

Syed Gous Syed Chand

.. Appellant

Versus

The State of Maharashtra and another

.. Respondents

Mr. G. R. Syed, Advocate for the Appellant.

Mr. Y. G. Gujarathi, APP for Respondent No. 1.

Mr. Anuj A. Fulfagar, Advocate for Respondent No. 2.

CORAM : KISHORE C. SANT, J.

DATED : 13th APRIL, 2023.

P C. :-

1. This is an appeal challenging an order passed by the learned Special Judge refusing to grant regular bail to the appellant in connection with the offence registered with the Nava Mondha Police Station, Parbhani dated 20.12.2022. Though initially offence was registered initially under Sections 326, 324, 323 r/w Section 34 of the Indian Penal Code (for short "I.P.C.") and Sections 3 (1) (r), 3 (1) (s), 3 (2) and 3 (v) of the Scheduled Caste and Scheduled Tribe (Prevention of Atrocities) Act for short ("Atrocities Act"), the police has filed charge-sheet by deleting offence under Section 326 of the I.P.C.

2. Learned advocate for the appellant submits that, the appellant is

in custody since 19.02.2023. Other accused persons are already released on bail by the Division Bench of this Court in Criminal Appeal No. 71/2023 by order dated 03.03.2023 by imposing certain conditions. This Court finds that, no purpose would be served by keeping the appellant in custody when the offences even as per the police are only under Sections 324, 323 r/w Section 34 of the I.P.C. and under the Atrocities Act. Since other accused persons are already released on bail by the Division Bench of this Court, a propriety requires that this appeal also needs to be allowed.

3. Learned advocate for respondent No. 2/informant submits that, there are threats given to the informant and therefore there is apprehension that the appellant would be pressurised and that will tamper with the trial.

4. Learned A.P.P. submits that, considering the nature of the offence and considering the allegations and that the appellant is staying in the same locality of that of the informant and there is every possibility of tampering with the evidence and pressurizing the witnesses he prays for some conditions.

5. The Division Bench of this Court while granting bail to co-accused persons has imposed the condition that the appellant shall not

visit or reside in Saibaba Nagar, Taluka and District Parbhani till the conclusion of the trial and they should reside at some other place. This Court finds that, while granting bail certain conditions needs to be imposed and hence, the following order.

6. The present appeal is allowed.

7. The order passed by the learned Special Judge, Parbhani below Exh. 9 in Special (Atrocity) Case No. 24/2023 dated 17.03.2023 is quashed and set aside.

8. The appellant shall be released on bail on executing PR. bond of Rs. 30,000/- (Rs. Thirty Thousand only) with two solvent sureties of Rs. 15,000/- (Rs. Fifteen Thousand only) in connection with Crime No. 0492/2022 pending before the learned Special Judge, Parbhani of the offences punishable under Sections 324, 323 r/w Section 34 of the I.P.C. and Sections 3 (1) (r), 3 (1) (s) and 3 (2) and 3 (v) of the Atrocities Act.

9. The appellant shall not visit or reside in Saibaba Nagar, Taluka and District Parbhani till the conclusion of trial. He should reside elsewhere and before submission of bail papers, the appellant should give complete address of his proposed residence with his mobile number to the Trial Court as well as to the Investigating Officer. He

shall not tamper with the evidence in the prosecution in any manner.

He shall not indulge in any criminal activity.

10. Bail be furnished before the Trial Court.

11. Learned advocate for the respondent No. 2/informant is appointed through legal aid. His fees is quantified to Rs. 5,000/- (Rs. Five Thousand only) to be paid by the High Court Legal Services Sub Committee, Aurangabad.

12. The criminal appeal stands disposed off.

(KISHORE C. SANT, J.)

PS.B.