

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

949 CRIMINAL APPEAL NO.640 OF 2023

CHANDU @ CHANDRAKANT TULSHIRAM MANE
VERSUS
THE STATE OF MAHARASHTRA AND ANOTHER

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Advocate for Appellant : Mr. Amol Shivajirao Sawant
APP for Respondent – State : Mr. G.O. Wattamwar
Advocate for respondent no. 2 (appointed) : Mr. Rahul R. Cheble

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**CORAM : R. M. JOSHI, J.
DATE : SEPTEMBER 14, 2023**

PER COURT :

. Being aggrieved by the order dated 07.07.2023 passed by the Special Judge & Additional Sessions Judge-1, Nilanga in Criminal Bail Application No.52 of 2023 rejecting the application filed by the appellant seeking bail in connection with Crime No.103 of 2023 registered with Shirur Anantpal Police Station, Dist. Latur for the offences punishable under Sections 307, 324, 323, 504 r/w. Section 34 of the Indian Penal Code and Sections 3(2) and 3 (v) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 (for short, 'Atrocities Act'), the appellant has filed the present appeal seeking regular bail.

2. Informant namely Tukaram Suryawanshi reported to the police that on 09.06.2023 at about 10:30 p.m. he had been to the Balu Dhaba for dinner. At the said dhaba, appellant and others were present. They invited him to consume liquor together. He refused to concede their request and preferred to take dinner on different table. After dinner was over, accused - Sonu and Firoz started abusing him for not consuming liquor and taking dinner with them. The persons present at the hotel intervened in the brawl. Thereafter at around 11:30 p.m. when he was sitting at Samaj Mandir, the said Sonu and Firoz came along with others and abused him. It is alleged that Chandu i.e. present appellant and Sohail caught hold of his hands and Sonu assaulted him with knife on his abdomen. He was taken to hospital and from there he lodged report with police.

3. Learned counsel for the appellant submits that the investigation into the crime is already over with recovery of weapon and as such, no purpose would be served to keep him in custody. It is also submitted that there is no allegation against the appellant that he used any weapon in order to cause assault on the informant. It is his further submission that there is nothing on record to indicate that the

offence in question is committed for the reason that the informant belongs to Scheduled Caste community.

4. Learned APP and the learned counsel for the informant submitted that *prima facie* there is material on record to indicate that the informant belongs to Scheduled Caste community and hence any crime committed on him amounts to an offence under the Atrocities Act. Learned counsel for the informant submitted that the appellant and the informant are resident of the same village and that there is possibility of the re-occurrence of the similar incident if the appellant is enlarged on bail. In response thereto, on instructions statement is made by learned counsel for appellant that he would not enter territory of village Shirur Anantpal for the period of six months. This statement is accepted accordingly.

5. It is not the case wherein there are any allegations against the appellant that he abused or insulted the informant over his caste. Furthermore, there is nothing on record to indicate that only for the reason that the informant belongs to SC community, offence has been committed against him. On the contrary, it is clear that on trifle issue

of not consuming liquor together the incident in question has occurred. Now injured is discharged from hospital. Charge-sheet has been filed. There is nothing on record to indicate that appellant has any criminal antecedents. In such circumstances, there was no reason and justification for the learned Additional Sessions Judge to deny bail to the appellant. Hence following order:

ORDER

- (i) Appeal is allowed.
- (ii) The appellant be released on bail in connection with Crime No.103 of 2023 registered with Shirur Anantpal Police Station, Dist. Latur for the offences punishable under Sections 307, 324, 323, 504 r/w. Section 34 of the Indian Penal Code and Sections 3(2) and 3 (v) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989, on furnishing PR Bond of Rs.15,000/- (Rs. Fifteen Thousand only) with one surety in the like amount.
- (iii) He shall attend the concerned police station once in a month for period of 6 months from today.
- (iv) He shall not contact the witnesses directly or indirectly.

- (v) He shall not interfere with the evidence in any manner whatsoever.
- (vi) As undertaken, appellant not to enter territorial jurisdiction of village Shirur Anantpal, for period of six months from today.
- (vii) Bail before the Trial Court.

6. Fees of learned Counsel Mr. Rahul R. Cheble, who is appointed to represent cause of respondent No.2, is quantified at Rs.6,000/- to be paid by High Court Legal Services Sub Committee, Aurangabad.

[R. M. JOSHI]
JUDGE

GGP