

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPEAL NO. 645 OF 2023

Manoj Navnath Itkar,
Age : 23 yrs, Occ: Labour,
R/o. Chanai, Tq. Ambajogai,
Dist. Beed.

...Appellant

Versus

1. The State of Maharashtra.

2. Ramdhan Gorakhnath Ghanghav

...Respondents

Mr. R. G. Hange, Advocate for the Appellant.
Mr. G. O. Watamwar, APP for Respondent No. 1— State.
Mr. U. L. Telgaonkar, Advocate for Respondent No. 2.

CORAM : R.M. JOSHI, J.

DATE : SEPTEMBER 21, 2023

ORDER

1. This appeal is filed under Section 14(A) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act (for short 'Atrocities Act') challenging order dated 20.05.2023 passed by learned Additional Sessions Judge, Ambajogai in Sessions Case No. 90/2022 rejecting application for regular bail in connection with Crime No. 437 of 2022 registered with Ambajogai City Police Station, Dist. Beed for the offences punishable under Sections 302, 326, 324, 143,

147, 148, 149, 120(B) of Indian Penal Code and Sections 3(1)(r)(s), 3(2)(v) of the Atrocities Act.

2. FIR shows that an incident occurred on 05.10.2022 when father of informant went to the Fair Price Shop of Ramesh Kadam. At that time, Ramesh abused him over his caste by stating that since he is member of Grampanchayat why does he require concessional grains. Thereafter, Ramesh and his sons pushed father of informant out of the shop and brought him on the road. Thereafter, others intervened in the said quarrel. At about 04.45 pm father of the informant told him about the receipt of phone call from present Appellant – Manoj abusing and threatening him. He advised his father not to go to him. At that time, at the end of lane Ramesh Kadam and goons were abusing his father. Hence, his father and grandfather went to the spot. Informant followed them. At about 05.30 pm Manoj assaulted father of the informant by causing injury to his buttocks with dagger. Navnath caused injury to him by smashing brick on his head. It is alleged that Dhiraj assaulted his father with fist and kick blows on his chest. There is allegation against Suraj he caused

injury to the grandfather of informant by assaulting him with sickle and he was also abused and assaulted with fist and kick blows. It is alleged that at that time Ramesh was instigating others to kill them.

3. Learned Counsel for the Appellant submits that though there is allegation against him about using weapon and causing injury to the deceased, however, considering the fact that no injury was caused on the vital part of the body, no intention to kill can be attributed to the Appellant. It is submitted that postmortem report shows that the cause of death of deceased is hemorrhagic shock due to stab injury and blunt trauma to abdomen. He further submitted that all accused are granted bail and hence, there is no reason or justification to deny bail to the present Appellant.

4. Learned APP and learned Counsel for informant opposed the said contentions by referring to the FIR, statements of witnesses and injuries mentioned in the PM report. It is their submission that grant of bail to the co-accused cannot become ground for allowing present Appeal as there was no allegation against co-accused of use of any weapon in the said assault. It is

also submitted that if the Appellant is enlarged on bail, he will pressurize the witnesses.

5. There is no dispute about the fact that the investigation into the crime is already over with filing of the charge-sheet. The cause of death of the deceased is not solely attributable to the stab injury but also blunt trauma to abdomen. Thus, cause of death is not associated to the independent act of the Appellant herein. Against all accused there was allegation of assaulting deceased are enlarged on bail. In such circumstances, it is necessary to see as to whether *prima facie* intention of commission of murder can be attributable to the present Appellant. PM report shows that there was single stab injury caused to the deceased that too on his buttocks. It is thus clear that apparently the said injury is not caused on the vital part of the body to attribute any intention to kill deceased. At this stage, this Court is of view that the consolidated acts of the accused persons resulted into the death of deceased. In such circumstances, when all co-accused are granted bail, there is no propriety in rejecting application of the

present Appellant.

6. In such circumstances, this is a fit case for grant of bail. The apprehension of the prosecution can be taken care by issuing appropriate directions. Hence, the order:

O R D E R

- (i) The Appellant – Manoj Navnath Itkar in connection with C.R. No. 437 of 2022 registered with Ambajogai City Police Station, Dist. Beed for the offences punishable under Sections 302, 326, 324, 143, 147, 148, 149, 120-B of IPC and Sections 3(1)(r)(s), 3(2)(v) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act be released on bail on furnishing PB and SB of Rs. 25,000 (Rupees Fifteen Thousand Only) with one solvent surety in the like amount.
- (ii) He shall attend the concerned police station once in a month for period of six month.
- (iii) He shall not contact the witnesses directly or indirectly.
- (iv) He shall not interfere with the evidence in any manner whatsoever.
- (v) Bail before trial Court.

(R.M. JOSHI, J.)

Malani