

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPEAL NO. 1021 OF 2023

Sachin Ashok Wakase

Appellant

Versus

The State of Maharashtra & another

Respondents

WITH
CRIMINAL APPEAL NO. 1004 OF 2023

Karan Ashok Kaloshi

Appellant

Versus

The State of Maharashtra & another

Respondents

Mr. N. B. Narwade, Advocate for the appellant.

Mr. G. O. Wattamwar, APP for the State.

Mr. R. V. Ghayal, Advocate for respondent No. 2.

CORAM : R. M. JOSHI, J.

DATE : 7th NOVEMBER, 2023.

ORDER

1. These appeals are preferred under Section 14A of the Scheduled Caste and Scheduled Tribes (Prevention of Arocities) Act seeking anticipatory bail in connection with Crime No. 64/2023 registered with Ahmednagar Railway Police Station, Tq. & Dist.

Ahmednagar for the offences punishable under Sections 304, 330, 384, 323 read with Section 34 of Indian Penal Code and Sections 3(r), 3(2)(v), 3(2)(vii), 5 of Scheduled Caste and Scheduled Tribes (Prevention of Atrocities) Act.

2. Informant Sharad Gulab reported to the police that on 1st August, 2023, at around 1.30 to 3.30 pm, appellants and another police personnel came to his house. He was taken away by them to Ahmednagar Railway Police Station. They went to food plaza of platform No. 1. They entered the said premises from the backdoor. At that place, appellants and others assaulted him and his acquaintance Vishal with wooden stick and iron rod. They were making enquiry with regard to the stolen mobile of Rs. 50,000/-. It is alleged that they told informant to pay Rs. 5,000/- for not lodging report against them. As he did not pay money, he was driven out of the food plaza. He claims that due to the assault sustained, Vishal slept outside the food plaza and thereafter informant left for the home. On the next day, it was revealed that Vishal is dead.

3. Appellant Sachin is police personnel. It is the contention of learned counsel for the appellants that informant is a habitual

offender and he is in habit of lodging false complaints etc. He sought to place reliance on the conversation between informant and deceased which according to him, indicates that infact if at all Vishal was assaulted he was assaulted by informant and some other persons and not by the appellants herein. It is his further submission that there is nothing on record to indicate that as to when the incident in question has occurred i.e. on 31st July, 2023 or 1st August, 2023. It is submitted that in absence of any evidence indicating admission of Vishal in the hospital, it cannot be said that the present appellants are responsible for the injuries caused to him and his death.

4. Learned APP opposed the appeals by mainly relying on the First Information Report as well as CDR indicating the presence of appellants at the spot of the incident. It is submitted that the statement of witness apart from informant's statement is more than sufficient to show that Vishal was assaulted on 31st July, 2023 and that he was admitted in the hospital with 14 injuries on his person. It is submitted that having regard to the cause of death as opined by the Medical Officer, the deceased has died due to injuries sustained at the hands of the appellants and others.

5. Considering prima facie evidence placed on record, it cannot be disputed that at the relevant time appellants were present at the spot of the incident or at least on railway platform. There is statement of informant about he and Vishal being assaulted by appellants and others and this statement gets support from the statement of witness Gajanan Petre who is a labour contractor. He has also seen Vishal being assaulted with iron rod by appellants. There is one more statement of Auto Rickshaw driver who had taken informant and Vishal along with appellant police personnel to railway station. He further states about informant and Vishal being assaulted at Food Plaze/canteen. Post Mortem report on record indicates as many as 14 injuries being caused to the deceased and the cause of death also sufficiently shows that the said injuries are reason for his death. It is sought to be argued by learned counsel for the appellants that there is conversation between informant and deceased Vishal which indicates that the assailant of Vishal cannot be someone else than appellants. At this stage, authenticity of the said conversation cannot be verified. Apart from this, the material placed on record clearly demonstrates prima facie involvement of appellants in the said assault. Hence, the same cannot become ground for grant of bail.

6. All these facts and prima facie material on record more than sufficiently demonstrate complicity of appellants in this crime. Appellant Sachin is police personnel. Having regard to the nature of offence, custodial interrogation of the appellants is necessary. Hence, both the appeals stand dismissed.

(R. M. JOSHI)
Judge

dyb