



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPEAL NO. 869 OF 2023

Sanjay Sahebrao Narute

Age : 28 Years, Occupation : Nil,

R/at – Front of Electricity Board,

Tal.- Malshiras, Dist - Solapur

...Appellant

Versus

1. The State of Maharashtra
Through Velapur Police Station,
Solapur.

2. Ajit Tanaji Sable
Age - 28 Years, Occ.- Driver,
R/at : Khandali, Tal.-Malshiras,
Dist – Solapur.

...Respondents

Mr. Shailesh Chavan a/w Mr. Harshwardhan Tambe, for the Appellant.

Mr. K.V.Saste, A.P.P for the Respondent No.1-State.

Mr. Abhishek Kulkarni for the Respondent No.2.

CORAM : REVATI MOHITE DERE &
GAURI GODSE, JJ.
DATE : 25th AUGUST, 2023

ORAL JUDGMENT (Per Revati Mohite Dere, J.) :

1. Heard.

2. Admit. Learned A.P.P waives notice on behalf of the respondent No.1-State. Mr. Abhishek Kulkarni waives notice on behalf of the respondent No.2. The appeal is taken up for final disposal forthwith, with the consent of the parties.

3. By this appeal, preferred under Section 14A of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act (for short 'SCST Act'), the appellant has impugned the order dated 10th July, 2023 passed by the learned Additional Sessions Judge, Malshiras, District - Solapur, by which, the appellant's application (Exhibit 13) was rejected by the said Court. Accordingly, the appellant seeks his enlargement on bail in connection with C.R. No.I-340 of 2022, registered with the Velapur Police Station, District Solapur, for the alleged offences punishable under Sections 307, 324, 326, 452, 34 of the

Indian Penal Code and under Sections 3(1) and 3(2)(v) of the SCST Act.

4. Perused the papers. The incident, in question, is stated to have taken place on 30th November, 2022 at about 7.20 p.m. According to the injured – Abhimanyu Sable, he was at Khandali Square, when a red colour swift car came there. According to the injured, Chaitanya Toraskar (Original Accused No.1), Sanjay Narute (Appellant), Atul Bhosale (Original Accused No.3), Aniket Kolekar (Original Accused No.4) got down from the said Swift car. He has alleged that the said accused were armed with sticks, chopper, knife, Koyta like weapons; that all the said accused came in the Saloon in which, he was seated and that the Chaitanya - Original Accused No.1 assaulted him with a Koyta on his head, pursuant to which, he raised his hand and as such, sustained an injury on his hand; that the appellant assaulted him with a chopper on his legs; that Chaitanya again assaulted him with a Koyta on his head, as a result of which, he sustained

injury on his head; that Aniket - Original Accused No.4 assaulted him with a knife on his head, pursuant to which, he raised his hand and as such, sustained an injury on his right hand and one of his finger got chopped. He has further stated that Original Accused No.3 – Atul Bhosale assaulted him with a stick on his legs and back. According to the injured, he raised hue and cry, pursuant to which, the accused ran away from the spot.

5. Learned Counsel for the appellant submits that the eye-witness in the said case i.e. the owner of Ekta Men's Parlour, has in his statement disclosed that four persons had entered his Saloon wearing monkey caps. He submits that since the accused were wearing monkey caps, the question of the injured identifying the accused, specifically spelling out their roles does not arise. He further submits that the motive alleged was of a previous quarrel, however, the injured's statement is silent as to the date and time of the alleged previous quarrel.

6. According to the learned Counsel for the appellant, a perusal of the Injury Certificate, which is at page 81 of the appeal shows that the injury sustained by the injured on his leg, was with a hard and blunt weapon. He submits that if as alleged by the prosecution, the appellant had assaulted with a chopper i.e. a sharp weapon, the injuries sustained, would have been incised injuries and not by a hard and blunt object.

7. Learned Counsel for the appellant, on instructions, states that the appellant is ready to stay out of Malshiras Taluka till the conclusion of the trial and that, in any event, he will not file any application seeking modification/relaxation of any condition within two years of his release. Statement accepted.

8. It is not in dispute that similarly placed co-accused have been granted bail by the trial Court, vide order dated 2nd March, 2023.

9. Considering the aforesaid, the Appeal deserves to be allowed. Hence, the following order :

ORDER

- (i) The appeal is allowed;
- (ii) The impugned order dated 10th July, 2023, passed by the learned Additional Sessions Judge, Malshiras, District – Solapur, below Exhibit – 13 in Atrocity Special Case No. 2/2023, stands quashed and set-aside;
- (iii) The appellant be enlarged on bail, on executing PR Bond in the sum of Rs. 25,000/- with one or two sureties in the like amount;
- (iv) The appellant shall not tamper with the evidence or attempt to influence or contact the complainant, witnesses or any person concerned with the case;
- (v) The appellant shall not enter the jurisdiction of

Malshiras Taluka, District Solapur, till the conclusion of the trial and in any event, will not file any application for seeking modification/relaxation of any conditions within two years of his release;

(vi) The appellant shall not leave India, without the prior permission of the trial Court;

(vii) The appellant shall inform his latest place of residence and mobile contact number immediately after being released and/or change of residence or mobile details, if any, from time to time to the Court seized of the matter and to the Investigating Officer of the concerned Police Station;

(viii) The appellant to cooperate with the conduct of the trial and attend the trial Court on all dates, unless exempted;

(ix) The appellant shall file an undertaking with regard to clauses (iv) to (viii) in the trial Court, within two weeks of his release;

(x) If there are two consecutive defaults either in attending the Police Station or if the appellant fails to appear before the trial Court, or there is breach of any of the aforesaid conditions, the prosecution shall be at liberty to seek cancellation of the appellant's bail.

10. Appeal is allowed and disposed of in the aforesaid terms.

11. It is made clear that the observations made herein are *prima facie*, and the trial Court shall decide the case on its own merits, in accordance with law, uninfluenced by the observations made in this order.

12. Stand over to 29th September, 2023 for recording compliance of the undertaking.

13. All concerned to act on the authenticated copy of this order.

GAURI GODSE, J.

REVATI MOHITE DERE, J.