

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

CRIMINAL APPEAL NO. 534 OF 2023

Sourabh Prasad Potdar
Versus
The State of Maharashtra And Anr.

...Appellant
...Respondents

....

Mr. Sukumar Ghanavat, Advocate for the Appellant.

Mr. Swaraj Jadhav, Advocate for Respondent No.2.

Mrs. Anamika Malhotra, APP for the Respondent No.1 – State.

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CORAM : PRAKASH D. NAIK, J.
DATE : 22nd JUNE, 2023.

PER COURT:

1. The Appellant is arrested on 03.03.2022 in connection with C.R. No.76 of 2022 registered with Miraj City Police Station, District Sangli, for offences punishable under Sections 386, 504, 506, r/w Section 34 of Indian Penal Code (for short “IPC”) and Sections 3(1)(r) & 3(1)(s) of the Scheduled Caste and Scheduled Tribes (Prevention of Atrocities) Act, 1989 (for short “SC/ST (Prevention of Atrocities) Act”).

2. The First Information Report (for short ‘FIR’) was lodged by Respondent No.2. It is alleged that the Appellant and his two associates are creating disturbance in the area. On 02.03.2022, all the accused threatened the complainant. The co-accused abused

him on caste. The Appellant was armed with small knife and demanded money from the complainant by threatening him that, if he does not part the amount he would be assaulted. All the accused assaulted the complainant. On completing investigation, charge-sheet is filed.

3. The Appellant preferred an application for bail before the Court of Sessions. The said application was rejected by order dated 18.03.2023.

4. Learned Advocate for the Appellant submitted that the Appellant is in custody from 03.03.2022. The allegation about the castiest abuses is attributed to the co-accused. The Appellant is in custody for more than a year. The co-accused Omkar Salunkhe has been granted bail by this Court vide order dated 11.10.2022, and Omkar Chougule is granted bail by this Court vide order dated 17.01.2023.

5. Learned A.P.P. submitted that the Appellant has been creating disturbance in the area. Specific role has been attributed to him. He was armed with weapon. Seven cases were registered against the Appellant in the past. Amongst them two cases were registered under Section 307 of IPC. In the event, bail is granted to the Appellant, there is every likelihood that he would repeat similar crimes.

6. Learned Advocate for Respondent No.2/Complainant submitted that the Appellant is habitually committing the offences which is evident from the fact that seven cases are registered against him. The statements of witnesses supports the prosecution case. The Appellant is involved in creating disturbance in the locality. The case of the co-accused who were released on bail can be distinguished. While granting bail to the co-accused this Court has specified that they were not armed with weapon and their role can be distinguished from the Appellant.

7. The complainant had alleged that the Appellant & the co-accused had intercepted and assaulted him with fist blows. The Appellant was armed with small knife which was used for threatening the complainant. The weapon is not used in assaulting the complainant. It is alleged that the amount was demanded from the complainant. Out of three accused, two were granted bail by this Court. There are criminal antecedents against the Appellant. However it is noted that he is in custody for more than a year. Investigation is completed and charge-sheet is filed. Bail can be granted on certain terms and conditions. Hence, I pass the following order:

ORDER

- i. Criminal Appeal No. 534 of 2023 is allowed;
- ii. The order below Exhibit-21 dated 18.03.2022 passed by the learned District and Additional Sessions Judge-2, Sangli in Sessions Case No.80 of 2022 is set-aside;
- iii. The Appellant is directed to be released on bail in connection with C.R. No.76 of 2022 registered with Miraj City Police Station, District Sangli, on executing P.R. Bond in the sum of Rs.25,000/- with one or more sureties in the like amount;
- iv. The Appellant shall stay out of jurisdiction Sangli till further orders;
- v. The Appellant can enter Sangli only for the purpose of attending Court proceedings;
- vi. The Appellant shall furnish the details of his place of residence after he is released on bail to Investigating Officer;
- vii. The Appellant shall attend Trial Court regularly on the date of hearing of the case unless exempted by Court;
- viii. The Appellant shall not tamper with the evidence;
- ix. Appeal stands disposed of accordingly.

(PRAKASH D. NAIK, J.)