



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO.816 OF 2023

Ganesh Bhimrav Padalkar

...Appellant

Versus

State of Maharashtra and Anr.

...Respondents

Mr. Nitin Gaware Patil a/w. Mr. Anandmaya Dhorde for the
Appellant.

Mr. V. B. Konde Deshmukh, APP for the State.

Mr. Ghansham Jadhav i/b. Mr. D. K. Jadhav for Respondent No.2.

CORAM : REVATI MOHITE DERE &
GAURI GODSE, JJ.

DATE : 30th AUGUST 2023

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

1. Heard learned counsel for the parties.
2. Admit. Learned counsel for the respective respondents
waive notice.

3. By this appeal, preferred under Section 14-A of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, the appellant has impugned order dated 16th March 2023 passed by the learned Additional Sessions Judge-2, Baramati, Dist. Pune, below Exhibit 5 in Sessions Case No. 66 of 2023, by which the learned Judge was pleased to reject the appellant's application seeking his enlargement on bail. Hence, the aforesaid appeal is filed challenging the aforesaid order and with a prayer to enlarge the appellant on bail in connection with CR No. 497 of 2022 registered with Walchand Nagar Police Station, Pune Rural, Dist. Pune for the alleged offences punishable under Section 307, 504, 506 read with section 34 of the Indian Penal Code; under section 3(1)(r) and 3(1)(s) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act (for short 'SC/ST Act') and under section 3 and 25 of Arms Act, 1959.

4. Perused the papers. According to the first informant-Suyash @Tatya Somnath Ghodke, the incident took place on 9th November 2022, at about 8.20 pm. He has stated that his

friends and nephew had accompanied him, to Ambedkar Garden, when he heard gunshots being fired. He has stated that he saw the persons who were firing the gunshots i.e. Suraj Dadaso Waghmode and Gajanan Kisan Rajput as well as some other accused.

5. Pursuant thereto, the first informant-Suyash lodged an FIR on 10th November 2022 as against Suyash, Gajanan and others alleging that the said persons fired in their direction, with an intent to kill them. It is also alleged that the said persons uttered casteist abuse at him. Admittedly, the first informant-Suyash has not named the appellant in the FIR which was lodged on 10th November 2022. The name of the appellant has surfaced only in the supplementary statement which was lodged after two months i.e. on 5th January 2023. It is for the first time, in the supplementary statement that the first informant has disclosed the appellants name, as having fired in the direction of Mayur.

6. It is pertinent to note, that Mayur in his statement recorded on 12th November 2022, does not disclose the name of the

appellant either as being present or firing in his direction. No casteist abuses are alleged as against the appellant. The appellant is in custody since 5th January 2023.

7. Considering the aforesaid, the appeal is allowed and the appellant is accordingly enlarged on bail on the following terms and conditions :

ORDER

- (i) The appeal is allowed.
- (ii) The impugned order dated 16th March 2023 passed by the Learned Additional Sessions Judge, Baramati below Exh.05 in Sessions Case No. 66 of 2023, stands quashed and set aside.
- (iii) The appellant be enlarged on bail, on executing P.R. Bond in the sum of Rs.15,000/-, with one or two local 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 Walchand Nagar Police Station, Pune for a period of one year from the date 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 is breach of any of the aforesaid conditions, the prosecution shall be at liberty to seek cancellation of the appellant's bail.

10. The appeal is allowed and disposed of in above 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.

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

GAURI GODSE, J.

REVATI MOHITE DERE, J.