



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

CRIMINAL APPEAL NO.1130 OF 2022

Pratik Satish Lokhande

...Appellant

Versus

1. State of Maharashtra

...Respondents

2. Mayur Bharat Jadhav

Mr. Satyam Nimbalkar a/w. Mr. Abhishek U. Arote for the Appellant.

Ms. P. P. Shinde, APP for the State.

Mr. Zaid Ansari i/b. Hulyalkar and Associates for Respondent No. 2.

**CORAM : REVATI MOHITE DERE &
GAURI GODSE, JJ.**

DATE : 28th AUGUST 2023

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

1. Heard.

2. Admit. Learned APP waives notice on behalf of the respondent no. 1 – State. Mr. Ansari waives notice on behalf of the respondent no. 2.

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 20th September 2022 passed by the learned Special Judge, Pune, by which, the appellant's application (Exhibit 27) was rejected by the said Court. Accordingly the appellant seeks his enlargement on bail in connection with CR No. 896 of 2021, registered with the Wakad Police Station, Pune for the alleged offences punishable under Sections 307, 326, 504, 506 r/w. 34 of the Indian Penal Code; under section 4 and 25 of the Arms Act 1959; under section 37(1) and 135 of the Maharashtra Police Act 1951; 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 section 7(1) of Protection of Civil Rights Act.

4. Perused the papers. According to the complainant – Mayur Bharat Jadhav (injured) the incident took place on 18th October 2021 when he was outside the Gomantak Hotel alongwith his two friends Prateek Salunkhe and Vishal Wakadkar. The complainant has stated

that at about 1.30 pm, Sumit Bhumkar (Accused no. 1) came to the spot with a koyta, the appellant with a knife and one unknown person with a hammer towards him. He has further stated that Accused no. 2- Pratik Lokhande (Appellant) held the complainant and inflicted blows on him, with a knife, whereas, Sumit Bhumkar (Accused No. 1) tried to assault complainant by koyta on his head, however since the complainant dodged, the blow landed on his shoulder.

5. The complainant has further alleged that an unknown person came from behind and assaulted him on his head with a hammer and thereafter, all the accused assaulted him with cement blocks; that thereafter, Sumit Bhumkar (Accused no. 1) is alleged to have taken out a knife from the appellant's hands and thrust it in his abdomen. Sumit Bhumkar (Accused No.1) is also stated to have uttered casteist abuses at the complainant.

6. Learned counsel for the appellant submits that the role attributed to the appellant by the first informant is that of an assault with a knife in his abdomen, as well as by Sumit with a knife i.e. Sumit is alleged to have pulled out the knife from the appellant's hand and again thrust

the said knife in his abdomen is contrary to what is stated by the two eye witnesses, Vishal Wakadkar and Prateek Salunkhe.

7. Learned counsel for the respondent no. 2 submits that the CCTV footage clearly shows the appellant's presence at the spot of the incident, holding a sura.

8. We have perused the statements of both the eye witnesses. Both eye witnesses have stated, that all the three accused assaulted the first informant i.e. Sumit was armed with a knife, appellant with a koyta and the third person with a hammer. Learned counsel for the appellant submits, that the injuries sustained by the complainant are not consistent with the statement of the injured and of the eye witnesses.

9. Perused the medical certificate of the injured. The complainant Mayur, appears to have sustained three injuries i.e. (1) clean lacerated wound injury over umbilical region (2) clean lacerated wound injury over left torso and (3) clean lacerated wound over occipital region.

10. Learned counsel for the appellant further submits that the appellant has no antecedents. The same is not disputed by the learned counsel for the respondent no. 2 and the learned APP.

11. Although, the first informant has alleged assault by the appellant with a knife and also by Sumit with a knife in the abdomen, the medical certificate reveals only one injury in the abdomen.

12. Considering the evidence as stated aforesaid, and prima facie, the inconsistency in the alleged role played by the appellant and the fact that the appellant is in custody since one year and 10 months with no antecedents, the Appeal deserves to be allowed. Hence the following order :

O R D E R

- i. The impugned order dated 20th September 2022 passed by the Special Judge and Additional Sessions Judge, Pune in Special Case No. 991 of 2021, stands quashed and set-aside;
- ii. The appellant be released on cash bail in the sum of Rs.20,000/-, for a period of six months;

- iii. The appellant shall within six weeks of his release on cash bail, furnish P.R. Bond in the sum of Rs.20,000/- with one or more 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 Wakad 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 (iii) 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.