

IN THE HIGH COURT OF JUDICATURE AT BOMBAY :
NAGPUR BENCH : NAGPUR.

CRIMINAL APPEAL NO. 275/2023.

1.Dhondu s/o Hakam Rathod,
Aged 75 years, Occupation -
Agriculturist,

2.Sopan s/o Dhondu Rathod,
Aged 34 years, Occupation -
Agriculturist,

Both residents of Titawi, Taluq
Lonar, District Buldhana.

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APPELLANTS.

VERSUS

1.State of Maharashtra,
through Police Station Officer,
Police Station Lonar, Taluq Lonar,
District Buldhana.

2.Nivrutti s/o Kisan Chibade,
Aged 60 years, Occupation -
Agriculturist, resident of Titawi,
Taluq Lonar, District Buldhana.

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RESPONDENTS.

Mr. S.V. Sirpurkar, Advocate for Appellants.
Mr. N.R. Rode, A.P.P. for Respondent No.1-State.
None for Respondent No.2 - Served

CORAM : VINAY JOSHI AND
VALMIKI SA MENEZES,, JJ.
DATE : JULY 06, 2023

ORAL JUDGMENT (PER VINAY JOSHI, J.) :

Heard.

Admit. By consent of the learned Counsel present for the parties, the appeal is taken up for final disposal. Though respondent no.2 – informant is served, he has chosen to remain absent. On last date, with specific direction the matter was adjourned to today, however, today also there is no appearance on his behalf.

2. This is an appeal in terms of Section 14A of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989, raising a challenge to the order of rejection of regular bail by Special Judge, Mehkar, dated 09.03.2023 passed below Exh.6 in Special Atrocity Case No.10/2023.

Rgd.

3. At the instance of a first information report (FIR) lodged by the father of injured, a crime came to be registered bearing Crime No.228/2022, with Lonar Police Station, District Buldhana, for the offences punishable under Sections 307, 341, 143, 147, 148, 149 and 323 of the Indian Penal Code, 1860 and under Sections 3(1)(r), 3(1)(s), 3(1)(v) and 3(2)(va) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989.

4. It is the prosecution case in nutshell that the accused are residents of same village and were indulging into illicit liquor business. The informant's son had quarrel with the accused, for which there were past instances of abuses. On 27.07.2022, all the accused in furtherance of their common intention, assaulted victim Santosh and caused him injuries of grave nature. The assault was by sickle, knife, wooden sticks on the vital part, and therefore, the report was lodged for the offence punishable under Section 307 of the Indian Penal Code alongwith other offences.

5. This appeal has been preferred by accused no.1 Dhondu

Rgd.

and accused no.2 Sopan, raising a challenge to the rejection of their regular bail vide order dated 09.03.2023. It is brought to our notice that co-accused Sudama has been released by this Court vide order dated 23.02.2023 in Criminal Appeal No.904/2022. The learned Counsel for appellants would submit that the main role assigned in the incident is to one Prabhu, while the role of appellant Dhondhu is restricted to instigating the co-accused. It is submitted that appellant Sopan has allegedly given stick blows on the shoulder of the injured, hence his further detention is unwarranted.

6. We have examined the first information report along with the statement of injured. The incident occurred on 27.07.2022 at around 2 to 3 p.m. in a residential locality. As per statements of injured and witnesses, co-accused Prabhu dealt blows by means of sickle on the head of the injured, whilst one Krushna has dealt knife blow. The role assigned to appellant – Sopan is of inflicting stick blow on the shoulder, whilst Dhondhu was allegedly stated to be present on the spot and abused the informant party in filthy language.

Rgd.

7. We have also examined the injury certificate which states that all injuries are of simple nature. There is no dispute that the injured was discharged from the hospital within couple of days. Investigation is completed and charge sheet is filed. Appellants are in jail since more than 6 months. Having regard to the role assigned to appellants, their further detention is unwarranted. The trial will take considerable time for disposal. In view of above, we proceed to pass the following order.

ORDER.

- [i] Criminal Appeal is allowed and disposed of.
- [ii] The impugned order passed by the Special Judge, Mehkar, dated 09.03.2023 below Exh.6 in Special Atrocity Case No.10/2023 is hereby quashed and set aside, so far as it relates to appellants -Dhondur Hakam Rathod and Sopan Dhondur Rathod.
- [iii] Appellants – [1] Dhondur Hakam Rathod and [2] Sopan Dhondur Rathod be released on bail on their furnishing

Rgd.

P.R. Bond in the sum of Rs.25,000/- (Rupees Twenty Five Thousand Only) each with one or two sureties in the like amount.

- [v] Appellants to attend concerned Police Station on first Monday of each month in between 10:00 a.m. to 2:00 p.m., till conclusion of the trial.
- [vi] Appellants / accused shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case, as also shall not tamper with the evidence.
- [vii] Appellants/accused shall provide their residential address and cell number to concerned Investigating Officer and shall not change their place of residence without prior intimation to the concerned Investigating Officer.

JUDGE

JUDGE