

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

CRIMINAL APPEAL NO. 370 OF 2023.

Sahil s/o Pramod Malokar,
Aged about 19 years,
Occupation - Student, Resident
of Ambika Nagar, Malkapur, Akola,
Taluka and District Akola.

... **APPELLANT.**

VERSUS

1.State of Maharashtra,
Through Police Station Officer,
Police Station Khadan,
District Akola.

2.Aditya s/o Sanjay Ingale,
Aged about 21 years, Occupation
Labourer, resident of Gautam
Nagar, Old RTO Road, Akola.

... **RESPONDENTS.**

Mr. B. Suchak, Advocate for the Appellant.
Mr. N.R. Rode, A.P.P. for Respondent No.1/State.
None for Respondent No.2.

**CORAM : VINAY JOSHI AND
VALMIKI SA MENENZES, JJ.**

DATE : JUNE 22, 2023.

ORAL JUDGMENT (PER VINAY JOSHI, J.) :

Considering the controversy involved in the matter, and by consent of the learned Counsel present for the parties, Criminal Appeal is taken up for final disposal at the stage of admission. Though the informant was served with the notice of this appeal, he has chosen to remain absent.

Admit.

2. This is an appeal under Section 14-A of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 raising a challenge to the order dated 17.05.2023 in Misc. Criminal Application No.273/2023 by the Sessions Judge-III, Akola by which the learned trial Court has rejected the regular bail relating to Crime No.123/2023 registered with Khadan Police Station, Akola for the offence punishable under Sections 307, 506 read with Section 34 of the Indian Penal Code and Section 3[2][v] of the Scheduled Castes

Rgd.

and Scheduled Tribes (Prevention of Atrocities) Act, 1989.

3. The appellant has claimed bail on the ground of innocence, false implication and more particularly on parity with co-accused namely Amit Gawli, who has been released by the trial Court vide order dated 04.05.2023. On the other hand the learned A.P.P. resisted the bail by pointing towards the gravity of the offence. Moreover, it is submitted that investigation is in progress and at this stage accused is not entitled for bail.

4. At the instance of a report lodged by the injured Aditya Ingle, the aforesaid crime came to be registered. It is informant's case that there was old rivalry in between them. In the past the appellant and co-accused have threatened him with dire consequences. On 25.03.2023 at about 7 a.m. while the informant was proceeding by vehicle, the appellant and co-accused accosted him. They were armed with deadly weapons. Co-accused Aditya dealt blow on his head by iron rod, while the appellant and another co-accused Amit Gawli inflicted knife blows, causing him bleeding

injury, therefore, the report.

5. The injured was immediately admitted to the hospital. Un-disputedly the injured was discharged on 09.04.2023. Perusal of the investigation paper reveals that the injured sustained three CLW and one incise wound. The trial Court while releasing the co-accused Amit Gawli on bail has considered that investigation is practically complete and particularly Amit Gawli was a student of 12th standard. We have examined the first information report as well as statement of eye witnesses. It reveals that the allegation against the present appellant Sahil and co-accused Amit Gawli are one and the same, as both have allegedly inflicted knife injuries. The trial Court while rejecting the bail of the appellant has expressed that though the role is some, however, knife was seized at the instance of the appellant, and carved out an exception to the rule of parity. Moreover, the trial Court while releasing the of co-accused Amit Gawli has expressed that he is a student.

6. True, knife was recovered at the instance of the appellant,

Rgd.

however, besides that there is no other distinguishing factor. Exactly similar allegations have been leveled against both of them. Particularly the appellant is also a student of 12th standard and barely 19 years of age. The learned A.P.P. has submitted that the charge sheet is ready and sent for scrutiny to the higher officer. Already investigation is complete and weapons used in the commission of the crime have been seized. The statements of eye witnesses have been recorded. The trial will take its own time for dispose. Therefore, we find no reason to give distinct treatment to the appellant then the released co-accused Amit Gawli. Imposition of certain stringent condition would suffice the purpose. In view of that, we find that the appellant has made out a case for grant of bail, hence the following order.

ORDER.

- (i) Criminal Appeal is allowed.
- (ii) The impugned order dated 17.05.2023 passed in Misc. Criminal Application No.273/2023 by the Sessions Judge-III, Akola is hereby quashed and set aside.

- (iii) The appellant – Sahil son of Pramod Malokar be released on bail in connection with Crime No.123/2023 registered with Khadan Police Station, Akola for the offence punishable under Sections 307, 506 read with Section 34 of the Indian Penal Code and Section 3[2][v] of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989, on his executing P.R. bond in the sum of Rs.25,000/- with one or two sureties in the like amount.
- (iv) The appellant 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.
- (v) The appellant shall attend the concerned police station on every Sunday in between 10 a.m. to 12 noon for a period of one year.
- (iv) The appellant shall furnish his present address of residence along with cell number to the concerned investigating officer.

JUDGE

JUDGE