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IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPEAL NO.218 OF 2024

Lakhan Rohidas Bhosale

APPELLANT

VERSUS

The State of Maharashtra and Others

RESPONDENTS

.....
Mr. V. D. Sapkal, Senior Advocate i/b Mr. Adinath B. Jagtap,
Advocate for the appellant

Mr. C. V. Bhadane, APP for respondent - State

Mr. Angad L. Kanade, Advocate for respondent No.3

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[CORAM : NITIN B. SURYAWANSHI, J.]

DATE : 4th APRIL, 2024

ORDER :

1. This appeal, filed under section 14-A (2) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989, challenges order dated 20th February, 2024 passed by learned Special Judge (Atrocity), Osmanabad in Bail Application No. 65 of 2024.

2. Respondent No.3 lodged FIR on 20th December, 2023 alleging that on 16th December, 2023, at about 9.00 p.m. Ganesh Rochakari, Lakhan Bhosale, Vishwajit Amrutrao , Sushant Sapate and two unknown persons have assaulted him. Appellant has taken informant to other accused persons, on his motorcycle.

When they reached at a playground at about 9.30 p.m. Ganesh, Vishwajit, Sushant and two others were consuming liquor there. Informant was also offered liquor, but he refused. Then he was offered cold drink. While informant was drinking cold drink, Ganesh assaulted him on back with iron rod and Vishwajit, Sushant, Lakhan (appellant) and others assaulted him with fist and kick blows and beer bottle. Ganesh inflicted blows of iron rod on his head. Ganesh pointed a pistol at his head and abused him in the name of caste. Ganesh also urinated on him and spat on his face. At that time, appellant pulled Ganesh back and requested him not to assault informant.

3. Pursuant to registration of crime, appellant was arrested on 2nd February, 2024. His application for bail is rejected by the trial court. Hence, the present appeal.

4. Heard learned Senior Advocate for appellant, learned APP for the State and learned advocate for respondent No. 3 – informant. Perused the investigation papers.

5. Learned APP as well as learned advocate for informant have opposed bail application, contending that it is appellant, who had taken informant to the accused persons, where he is assaulted. So also specific allegations of assault by beer bottle are made against appellant and appellant has criminal

antecedents. Main accused Ganesh is yet to be arrested.

6. Learned Senior Advocate for appellant submits that out of three offences registered against appellant, he is already acquitted in two offences i.e. Crime No. 176 of 2007 and 80 of 2010 registered with Tujlapur Police Station. So it appears that presently, Crime No. 398 of 2020 registered with Tujlapur Police Station for offence punishable under sections 394, 427, 504 and 506 of the Indian Penal Code, is pending against appellant.

7. In the FIR, general allegations are levelled against appellant that he, along with Sushant, Vishwajit and two unknown persons, assaulted informant with fist and kick blows and with beer bottle. Considering the nature of allegations made against him and the injury certificate of the informant, it is clear that informant has suffered two Contused Lacerated Wounds on head, which are attributable to accused Ganesh. Broken pieces of one beer bottle were recovered from the spot of incident. *Prima facie*, therefore, it appears that assault was made with one beer bottle, which is already recovered.

8. Appellant was arrested on 2nd February, 2024 and he was remanded to police custody till 9th February, 2024 and thereafter he is remanded to Magisterial Custody.

9. In the present crime, accused No.2 Sushant and accused No.4 Vishwajit are also arrested along with appellant.

10. Taking into consideration general nature of allegations made against appellant and the injuries mentioned in injury certificate and since appellant is arrested on 2nd February, 2024, he need not be detained for indefinite period. Investigation is in progress and accused No.1 is yet to be arrested.

11. Appellant is permanent resident of Bhosale Galli, Tujjapur and he is not likely to abscond if released on bail.

12. In the result, following order-

ORDER

A. Appeal is allowed.

B. Appellant be released on bail in connection with Crime No. 521 of 2023 registered with Tujjapur Police Station, District - Dharashiv for offence punishable under sections 307, 324, 143, 147, 149, 504, 506 of Indian Penal Code, u/s 3/25 of Arms Act and under sections 3 (1) (a), 3 (1) (r), 3 (1) (s), 3 (2) (va) and 148 of the Atrocities Act, on executing Personal Bond and Surety Bond of Rs.15,000/- with one surety in the like amount.

- C. Until further orders, appellant shall not enter Shukrawar Peath area of Tujlapur wherein informant resides.
- D. Appellant shall not, in any manner, try to contact and / or influence prosecution witnesses.
- E. Appellant shall not tamper prosecution evidence.

**[NITIN B. SURYAWANSHI]
JUDGE**