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IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPEAL NO.241 OF 2024

Vasant Vishwas Patil Nerpagar

APPELLANT

VERSUS

The State of Maharashtra and Another

RESPONDENTS

.....
Mr. Suresh M. Kulkarni, Advocate for the appellant
Mrs. P. V. Diggikar, APP for respondent - State
Mr. D. R. Dhumal, Advocate for respondent No.2 (appointed)
.....

[CORAM : NITIN B. SURYAWANSHI, J.]

DATE : 23rd APRIL, 2024

ORDER :

1. This appeal, filed under section 14-A (2) of the Scheduled Castes, Scheduled Tribes (Prevention of Atrocities) Act, challenges order dated 3rd February, 2024 passed by learned Additional Sessions Judge, Dhule below Exhibit-3 in Sessions Case No. 226 of 2023.
2. Appellant is facing charge under section 302 of the Indian Penal Code and section 3 (2) (5) of the amended Atrocities Act.
3. FIR is lodged by Munnibai Suka Pawara alleging that on 15th September, 2023, at about 8.00 p.m., appellant hit wooden log on the head of her husband – Suka Malsing Pawara, due to which Suka received a bleeding injury and was required to be

hospitalized. Suka expired during treatment.

4. Appellant was arrested on 19th September, 2023 and was remanded to Police custody up to 23rd September, 2023 and since thereafter he is in magisterial custody. Charge sheet in the crime is filed on 13th November, 2023.

5. Heard learned advocate for appellant, learned APP for the State and learned advocate for respondent – informant. Perused the charge sheet.

6. Learned advocate for appellant submits that, this is a case of single blow and, therefore, section 302 of the Indian Penal Code would not be attracted to the facts of the present case. He submits that, since charge sheet is filed and the case is not likely to conclude in the near future, appellant may be released on bail.

7. Learned APP and learned advocate for respondent No.2 vehemently opposed the appeal contending that Suka is brutally murdered due to the assault on the part of appellant and instead of taking injured Suka to hospital, appellant poured water on his injury and ignored requests of informant to help her to carry Suka to hospital. According to them, therefore, this conduct of appellant dis-entitles him from discretionary relief of bail.

8. *Prima facie*, the case appears to be of a single blow.

Appellant is in jail since 19th September, 2023 and the case is not likely to be concluded in the near future.

9. Appellant is permanent resident of village Dongargaon, Taluka - Shindkheda, District - Dhule. He has movable and immovable properties and deep roots in the society and he will not abscond if released on bail. Respondent No. 2- informant is resident of village Kulid, Pipri Pada, Taluka - Shirpur, District - Dhule. In these peculiar facts, appellant need not be detained for indefinite period.

10. *Prima facie*, offences under the Atrocities Act are not applicable to the facts of the present case. Hence, the following order.

ORDER

- A. Appeal is allowed.
- B. Impugned order dated 3rd February, 2024 passed by learned Additional Sessions Judge, Dhule below Exhibit-3 in Sessions Case No. 226 of 2023 is quashed and set aside.
- C. Appellant - Vasant Vishwas Patil Nerpagar, be released on bail in connection with Crime No. 249 of 2023 registered with Nardana Police Station, on executing Personal Bond and Surety Bond of Rs.25,000/- with one surety in the like

amount.

- D. Appellant shall not, in any manner, try to influence and / or try to contact prosecution witnesses and shall not tamper prosecution evidence.
- E. Learned advocate appointed for respondent No.2 be paid fees as per schedule, within four weeks.

**[NITIN B. SURYAWANSHI]
JUDGE**

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