



IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
BENCH AT AURANGABAD.

913 CRIMINAL APPEAL NO. 358 OF 2024

Shaikh Ashpak Shaikh Hasan

..APPELLANT

-VERSUS-

1. The State of Maharashtra
2. Sneha Suresh Maske

..RESPONDENTS

Advocate for Applicant : Mr. B.N. Gadegaonkar
APP for Respondent/State: Mrs.Dipali S. Jape
Advocate for respondent no.2 : Mr. A.V. Patil

CORAM : **SHIVKUMAR DIGE, J.**

DATE : 6th August, 2024.

P.C.:

1. This appeal is preferred against the order dated 7th March, 2024 passed by Additional Sessions Judge-1, Nanded in Misc. Criminal (Bail) Application No.938 of 2023 filed in pursuance of F.I.R. No. 0245 of 2023 registered with Police Station, Kinwat, Dist. Nanded, for the offences punishable under sections 3(2)(v) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act and sections 302, 120(B) read with 34 of the Indian Penal Code (For short, "IPC").
2. It is prosecution's case that on 14th October, 2023, the husband of informant was murdered by unknown persons. It is alleged that unknown persons assaulted on the back side of head of deceased Suresh. When he was admitted in the hospital, he succumbed to the injuries. In investigation, it revealed that the appellant and co-accused

assaulted the deceased with axe on his head and committed his murder.

3. It is contention of the learned counsel for the appellant that the appellant is arrested on 21st November, 2023. Since then he is in judicial custody. The appellant has been falsely implicated in this case. The learned counsel further submitted that the appellant has been arrested on the basis of suspicion. Initially the F.I.R. was lodged against unknown persons. There is delay in lodging the F.I.R. The appellant is behind bar more than 10 months. Investigation is completed. Charge-sheet has been filed. Weapon used in the offence is recovered. The appellant is 18 years old. He is the earning member of his family. It may take time to conclude the trial and requested to allow the appeal.

4. It is contention of the learned APP along with learned counsel for respondent no.2. that appellant along with co-accused murdered the husband of the informant on the ground of previous enmity. The weapon used in the crime i.e. axe is recovered at the instance of the appellant. Cause of death in the postmortem report is mentioned as due to head injuries. The report of Medical Officer shows that the said injuries can be caused by axe recovered at the instance of the appellant. It shows the involvement of the appellant in the crime. If the appellant is released on bail, he may abscond or he may influence the prosecution witnesses. The learned APP further submitted that the

appellant was aware that the deceased was of scheduled caste and requested to dismiss the appeal.

5. I have heard all the learned counsel. Perused the charge-sheet and the impugned order.

6. It appears from the record that initially the F.I.R. was lodged against the unknown persons. Thereafter, in investigation the Police arrested the appellant. At the instance of the appellant axe is recovered. In the F.I.R. there are no allegations that the appellant was aware about the caste of the deceased. Investigation is completed. Charge-sheet has been filed. The appellant is behind bar more than 10 months. At the time of incident the appellant was around 18 years age. He has no criminal antecedents. It may take time to conclude the trial. Considering these aspects, further detention of the appellant is not required and I pass the following order :-

ORDER

- (i) The appeal is allowed.
- (ii) The order dated 7th March, 2024 passed by Additional Sessions Judge-1, Nanded in Misc. Criminal (Bail) Application No.938 of 2023 is quashed and set aside.
- (iii) The appellant in connection with the F.I.R. No. 0245 of 2023 registered with Police Station, Kinwat, Dist. Nanded, for the offences punishable under sections 3(2)(v) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act and sections 302,

120(B) read with 34 of the Indian Penal Code be released on executing personal bond in the sum of Rs.15,000/- with one surety of the like amount, on the following conditions :-

(a) the appellant shall not tamper the prosecution evidence and shall not pressurize the prosecution witnesses and informant.

[SHIVKUMAR DIGE, J.]

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