



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPEAL NO. 411 OF 2024

Bharat Shivaji Aaglave
VERSUS
The State Of Maharashtra And Others

WITH
CRIMINAL APPEAL NO. 413 OF 2024

Shubham Rajendra Ekde
VERSUS
The State Of Maharashtra And Others

...
Mr. K. R. Doke, Advocate for Appellants
Mr. B. A. Shinde, APP for Respondents/State
Mr. R. A. Shinde, Advocate for Respondent No. 3

...

CORAM : R.M. JOSHI, J
DATE : JULY 01, 2024

PER COURT :

1. Appellants are seeking regular bail in connection with Crime No. 150/2023 registered with Washi Police Station, Dist. Osmanabad for the offenses punishable under Sections 302, 201 read with Section 34 of the Indian Penal Code and Sections 3(2)(va) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, present Appeals are filed under Section 14(A) of the Atrocities Act.

2. Learned Counsel for the Appellants submit that

this Court had already granted regular bail to one of the co-accused and owing to the fact that charge-sheet is already filed and the Appellants who are of young age with no criminal history are behind bars for about a year. By referring to the charge-sheet, it is submitted that there is no evidence on record to indicate that the Appellants had no intention to cause death of the deceased. It is submitted that post mortem notes shows that the cause of death is not any other injury but isolated injury caused to the abdomen. Thus, it is his submission that no inference can be drawn from this evidence to indicate the involvement of the Appellants in the crime punishable under Section 302 of the Indian Penal Code.

3. Learned Counsel for the Informant supported the Appellants for grant of bail.

4. Learned APP opposed the Appeals by contending that there are statements of three witnesses i.e., Dilip, Omkar and Heena which show that these Appellants had caused assault on the deceased with wooden stick and pipe. He also referred to the post mortem notes which indicates that there were six other injuries

caused to the deceased. According to him, the number of injuries caused to the deceased shows intention of the Appellants to kill deceased.

5. Perusal of the charge-sheet and in particular statements of Heena, Dilip and Omkar shows that there was no previous dispute between the deceased and present Appellants to provide motive for them to eliminate him. It can be gathered from their evidence that the incident has occurred when concerned were under the influence of liquor. It can be seen from the record that though 4-5 other injuries caused to the deceased, however, cause of death is due to the single abdominal injury. Statement of Heena shows that deceased was drunkard and had ailments related to the same. Thus, there is possibility that deceased could have died due to the said ailment, which is aggravated by isolated injuries caused to his abdomen. In such circumstances, no intention to kill him can be attributed to the Appellants. Appellants are of young age with no criminal history behind them. Investigation into the crime is also over and charge-sheet is filed. Appellants have permanent abode and they are not likely

to flee from justice. In such circumstances, there is no propriety in keeping Appellants behind bar.

6. In view of above, Appeals stand allowed.

Hence, the order:

O R D E R

- (i) The Appellants – Bharat Shivaji Aaglave & Shubham Rajendra Ekde in connection with Crime No. 150 of 2023 registered with Washi Police Station, Dist. Osmanabad for the offences punishable under Sections 302, 201 read with Section 34 of Indian Penal Code and Section 3(2)(va) of the of the Scheduled Castes and Scheduled Tribes Act be released on bail on furnishing PB and SB of Rs. 25,000 (Rupees Twenty Five Thousand Only) each with one solvent surety in the like amount.
- (ii) They shall attend the concerned police station as and when required.
- (iii) They shall not contact the witnesses directly or indirectly.
- (iv) They shall not interfere with the evidence in any manner whatsoever.
- (v) Bail before trial Court.

(R. M. JOSHI, J.)

Malani