



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

915 CRIMINAL APPEAL NO. 601 OF 2024

VIJAY KHEMA RATHOD
VERSUS
THE STATE OF MAHARASHTRA AND ANOTHER

...
Advocate for Appellant : Mr. Ghute Patil Kishor J.
APP for Respondent/State : Mr.P.P. Dawalkar
Advocate for Respondent no.2 : Mr.Pathan Sartaj Khan H.
...

CORAM : **SHIVKUMAR DIGE, J.**

DATE : 6th August, 2024.

P.C.:

1. This appeal is preferred against the order dated 31st May, 2024 passed by the Special Judge (Atro), Osmanabad below Exhibit-6 in Special Case No.43 of 2024 filed in pursuance of F.I.R. No.44 of 2024 registered with Anandnagar Police Station, Dharashiv, for the offences punishable under sections 307, 324, 323, 504, 506 read with 34 of the Indian Penal Code (For short, "IPC") and section 3(1)(r)(s) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act.
2. It is prosecution's case that the informant runs Beer Bar and Permit Room at Sanja road, Dharashiv. On 12th February, 2024, the appellant and his friends had gone in the said Bar for drinking liquor. It is alleged that after drinking liquor the appellant refused to pay bill. When the informant asked him to pay the bill, the appellant abused the informant on his caste and assaulted the informant with knife with

intention to kill him. It is alleged that the appellant gave blow of knife to the informant. Due to blow, the informant has sustained injuries.

3. It is contention of the learned counsel for the appellant that the appellant has been falsely implicated in this case. The appellant is behind bar more than six months. Investigation is completed. Charge-sheet has been filed. Injuries suffered by the informant are simple in nature. The incident is happened in Bar so it was not at public view. Only to accentuate the case, the allegations are levelled against the appellant and requested to allow the appeal.

4. It is contention of the learned APP along with learned counsel for respondent no.2. that the appellant and co-accused refused to pay bill of the liquor. When informant asked them to pay the bill, the appellant assaulted the informant with knife with an intention to kill him. The appellant abused the informant on his caste. The learned APP further submitted that the entire incident is captured in CCTV footage. The appellant has criminal antecedents. If he is released on bail, he may abscond and influence the informant and pressurize the witnesses and requested to dismiss the appeal.

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

6. The allegations against the appellant are that the appellant assaulted the informant with knife with an intention to kill him. The injury certificate produced on record shows that the informant has

suffered simple injuries. The incident is happened in the Bar, so it can not be considered at public view. The appellant is behind bar more than six months. Investigation is completed. Charge-sheet has been filed. Though nine cases are registered against the appellant, out of those in four cases, the appellant has been acquitted from the charges levelled against him. 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 31st May, 2024 passed by the Special Judge (Atro), Osmanabad below Exhibit-6 in Special Case No.43 of 2024 is quashed and set aside.

- (iii) The appellant in connection with F.I.R. No.44 of 2024 registered with Anandnagar Police Station, Dharashiv, for the offences punishable under sections 307, 324, 323, 504, 506 read with 34 of the Indian Penal Code and section 3(1)(r)(s) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act. 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.

(b) the appellant shall not enter in Dharashiv city till framing of the charge except attending the Court's dates in this proceeding or any other proceeding or attending the police station, if directions are given.

[SHIVKUMAR DIGE, J.]

sga