



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPEAL NO. 729 OF 2024

Datta @ Dattatray Sayanna Rajarwar

VERSUS

The State Of Maharashtra And Another

- Mr. N. S. Ghanekar, Advocate for the Appellant
- Mr. B. B. Bhise, APP for the Respondent/State
- Mr. A. T. Nagode h/f Mr. S. P. Koli, Advocate for the Respondent No. 2 (appointed)

CORAM : R.M. JOSHI, J

DATE : SEPTEMBER 30, 2024

PER COURT :

1. This is the second bail Appeal filed under Section 14(A) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act (for short 'Atrocities Act') challenging order dated 16.07.2024 passed by learned Additional Sessions Judge, Nanded, in Special Case No. 68/2023 rejecting application for regular bail in connection with Crime No. 778/2022 registered with Nanded Rural Police Station, Dist. Nanded for the offences punishable under Sections 326, 323, 504, 506 read with Section 34 of the Indian Penal Code and Sections 3(1)(d) of the Atrocities Act and Section 4/25 of the Arms Act.

2. First informant report indicates that an incident had occurred on 27.12.2022 wherein when the informant was sitting near the temple near his house was assaulted by co-accused. It is alleged that co-accused along with present Appellant came to the spot. Other abused him over his caste and the iron rod holding by the Appellant herein was taken by the co-accused to cause assault on the informant causing fracture injury.

3. Learned Counsel for the Appellant has drawn attention of the Court to the order passed by the Division Bench of this Court in Appeal No. 389/2023 whereby the Appeal for bail was rejected with leave to the Appellant to prefer such Appeal if trial is not completed within a period of a year. He has drawn attention of the Court to the FIR to submit that there is no allegation against the present Appellant of causing any assault on the informant which has resulted in causing of fracture injury. The allegation against him is that he caused assault by fist and kick blows. It is his further submission that Appellant is behind

bars since 28.03.2023.

4. Learned APP and learned Counsel for Informant opposed the bail on the ground that the first bail application was rejected by the Division Bench of this Court on merits and hence, it is not the case for grant of bail. It is pointed out that all accused came together and thereafter, co-accused caused assault on the informant which shows that the accused had common intention to cause said assault. Learned Counsel for the Informant has drawn attention of the Court to the FIR lodged against Appellant by the informant wherein he was threatened. On the apprehension of likelihood of absconding as well as tampering of the evidence of prosecution, rejection of Appeal is sought.

5. Undisputedly, Appellant is not author of the injury which had led to causing of fracture injury to the informant. There is no allegation that he was possessing weapon at the spot. The only allegation against him is that he assaulted the informant with fist and kick blows. Appellant is behind bar for 1 ½ year. Having regard to the nature offence it is a fit

case to grant bail.

6. In so far as the order passed by the Division Bench of this Court is concerned, the Division Bench has granted liberty to the Appellant to prefer application for bail if the trial is not concluded within a period of a year. Having regard to the said liberty, there is no impediment to pass order of bail.

7. Considering the apprehension of the informant as well as prosecution, the Appellant is prevented from entering Nanded City till evidence in Special Case No. 68/2023 gets over. He is permitted to attend proceeding before the Sessions Court. Before attending the proceedings, he has to attend the concerned police station and after proceeding is over he has to inform about the same to the concerned police station again. If he is found in the Nanded City in contravention of this order, appropriate order shall be passed of cancellation of bail. Hence, appeal is allowed.

8. Hence, the order:

O R D E R

- (i) The Appellant in connection with Crime No. 778/2022 registered with Nanded Rural Police Station, Dist. Nanded for the offences punishable under Sections 326, 323, 504, 506 read with Section 34 of the Indian Penal Code and Sections 3(1)(d) of the Atrocities Act and Section 4/25 of the Arms Act, shall be released on bail on furnishing PB & SB of Rs. 30,000 (Rupees Thirty Thousand Only) with two solvent surety in the like amount.
- (ii) The Appellant shall not enter the Nanded City till evidence in Special Case No. 68/2023 gets over.
- (iii) He shall not contact the witnesses directly or indirectly.
- (iv) He shall not interfere with the evidence in any manner whatsoever.

(R.M. JOSHI, J.)