



IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPEAL NO. 769 OF 2023

Shivraj Gangadharrao Adabe

...Appellant

VERSUS

The State Of Maharashtra And Another

...Respondents

...

Mr. N.S. Ghanekar, Advocate for appellant.

Mr. S.B. Jadhav, APP for Respondent-State.

Mr. U.L.Telgaonkar, Advocate for Respondent No. 2.

.....

[CORAM : NITIN B. SURYAWANSHI, J.]

DATE : 5th JANUARY, 2024

ORDER :

1. By this appeal filed under section 14-A of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989, appellant challenges the impugned order passed by Additional Sessions Judge, Ambajogai, in Miscellaneous Criminal Bail Application No. 295 of 2023, thereby rejecting the regular bail application filed by appellant.

2. Tukaram Jogdand was found dead in police lock up. Initially, Crime No. 340/2016 is registered for offences punishable under sections 306, 330, 331, 348, 323 read with 34 of Indian Penal Code. Investigation was carried out in the said

Bhagyawant Punde

crime and charge sheet came to be filed and case was numbered as Sessions Case No. 7/2022.

3. In Criminal Writ Petition No. 431/2022 filed by mother of deceased, learned Division Bench of this Court directed addition of section 302 IPC in the crime and also directed to carry out further investigation under section 173(8) Cr.P.C. During the further investigation, appellant who, at the time of incident was attached to Parali City Police Station as Police Station Officer and as he was on duty at the time of incident was arrested. On completion of further investigation supplementary charge sheet is filed. Appellant, therefore, preferred bail application to the Sessions Court which is rejected. Hence, the present appeal.

4. Heard the learned advocate for appellant, learned APP for respondent-State and learned advocate for respondent No. 2. Perused the investigation papers.

5. It is a matter of record that initially charge sheet in the present crime was filed on 05.01.2021 against five police personnel. At that time, appellant was not arrayed as accused.

During further investigation carried out pursuant to the directions of this Court, appellant came to be arrested on 26.06.2023. On completion of further investigation, supplementary charge sheet is filed on 10.07.2023.

6. As per the prosecution, appellant failed to take entry that deceased was in the lock up, and appellant alleged to have prepared false record to screen other accused persons. Material collected during the investigation does not show that appellant has participated in assaulting the deceased in lock up.

7. Since the investigation is concluded, Sessions trial is not likely to conclude in near future. Appellant being public servant is not likely to flee from justice and will be available for trial. Considering the role attributed to appellant his further custodial detention is not warranted. The appeal therefore deserves to be allowed. Hence, the following order:

ORDER

- I) Criminal Appeal is allowed.
- II) Appellant- Shivraj Gangadharrao Adabe be released on bail on furnishing P.B. and S.B. of Rs. 25,000/- with one surety in the like amount.

- III) Appellant shall not tamper the prosecution evidence.
- IV) Appellant shall stay at the head quarter which is assigned to him by superior officers and shall not enter Parali Taluka.

[NITIN B. SURYAWANSHI, J.]