



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPEAL NO. 843 OF 2024

Sagar S/o Vilas Nandre

VERSUS

The State Of Maharashtra And Another

- Mr. N. N. Desale, Advocate for the Appellant
- Mr. P. K. Lakhotiya, APP for the Respondent/State
- Mr. L. S. Mahajan, Advocate for the Respondent No. 2

CORAM : R.M. JOSHI, J

DATE : OCTOBER 09, 2024

PER COURT :

1. Appellant seeks regular bail in connection with Crime No. 140/2024 registered with Nizampur Police Station, Dist. Dhule for the offence punishable under Section 302 of the Indian Penal Code and Sections 3(1)(r)(s)(v)(a) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act.

2. FIR lodged by Ganesh indicates that on 21.05.2024 at about 9 pm there occurred accident between 2 motorcycles, one rode by informant and other by the Appellant/Accused. As a result of the said dash, both riders fell down. It is alleged that thereafter Appellant assaulted maternal uncle of the informant.

In the said assault, he sustained serious injuries and subsequently succumbed to the same. Offence for murder came to be charged against present Appellant.

3. Learned Counsel for the Appellant submits that Appellant and Informant and deceased were unknown to each other and as such, there is no question of he having any motive to kill the deceased. He also drew attention of the Court to charge-sheet which shows that there was no weapon used by the Appellant to cause assault. It is his submission that possibility of deceased dying for some other reason than the assault is not ruled out. He claims that there is no criminal history behind the Appellant and he is not likely to flee.

4. Learned APP and learned Counsel for Informant opposed the Appeal essentially relying upon the supplementary statement of Ganesh, who is informant, that Appellant had caused assault on the private part of the deceased. He also referred to the post mortem notes indicating about six injuries caused to the deceased in the said assault. Thus, it is their contention that this is not a fit case for release of

Appellant on bail. They also apprehends interference in the evidence of the prosecution in case Appellant is enlarged on bail.

5. *Prima facie* perusal of the charge-sheet indicates that there was no acquaintance between deceased and the Appellant. Thus, it cannot be said that he had any motive to kill deceased. Apart from this, there is nothing to indicate that any weapon was used by the Appellant to cause assault on the deceased. The incident of assault is preceded by the accident between two motorcycles and hence, possibility of any injury on account of accident to deceased is not ruled out. Even if it is accepted that there are six external injuries, *prima facie* it is a far fetched to apply Section 302 of the IPC against Appellant. He has no criminal antecedents. He is not likely to flee. Hence, appeal deserves to be allowed. Needless to record that these are *prima facie* observations and Trial Court is not bound by the same.

6. Hence, the order:

O R D E R

(i) Appeal is allowed.

- (ii) Appellant in connection with Crime No. 140/2024 registered with Nizampur Police Station, Dist. Dhule for the offence punishable under Section 302 of the Indian Penal Code and Sections 3(1)(r)(s)(v)(a) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, be released on bail on furnishing PB & SB of Rs. 20,000 (Rupees Twenty Thousand Only) with one solvent surety in the like amount.
- (iii) He shall attend the concerned police station as and when required.
- (iv) He shall not contact the witnesses directly or indirectly.
- (v) He shall not interfere with the evidence in any manner whatsoever.

(R.M. JOSHI, J.)