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IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPEAL NO.911 OF 2023

Sadashive Sakharam Jagtap

APPELLANT

VERSUS

The State of Maharashtra and Another

RESPONDENTS

.....
Mr. Z. H. Farooqui, Advocate for the appellant
Mr. N. B. Patil, APP for respondent - State
Ms. Sunita G. Sonawane, Advocate for respondent No.2
.....

[CORAM : NITIN B. SURYAWANSHI, J.]

DATE : 13th MARCH, 2024

ORDER :

1. This appeal challenges order of grant of bail under section 439 of the Criminal Procedure Code to respondent No. 2-accused.
2. Informant - appellant lodged FIR stating that on 27th May, 2023, at about 5.45 to 07.00 p.m., while he was proceeding to brickkiln of Ramdas Popat Adhav, one Swift car obstructed him. Accused Chandrakant @ Chandu Ghavte, Nitin Dhavale, Sonu @ Santosh Bhondve and three unknown persons alighted from the Swift car holding axe, sword and pistol. Respondent No. 2 - accused gave blow of blunt side of axe on his head, above neck. Informant fell from the motorcycle. Sonu Bhondve and Nitin

Dhavale were carrying swords and they gave fist and kick blows to informant. Three unknown persons also assaulted him with fist and kick blows. One of the unknown accused was carrying pistol. Respondent No.2 - accused took away an amount of Rs.36,600/- from pant's pocket of informant and also snatched gold chain from his neck. Respondent No.2 - accused also took pistol from unknown accused and pointed it to the informant and threatened to kill him, by taking name of his caste. Informant's brother Madhukar came towards him on hearing the noise and on seeing him, all the accused persons raw away.

3. Respondent No. 2- accused was arrested on 25th July, 2023 and he filed Criminal Miscellaneous Application (Bail) No.528 of 2023 for regular bail, which is allowed by learned Additional Sessions Judge, Shrigonda. Present appeal seeks cancellation of regular bail granted to respondent No.2.

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

5. Learned advocate for appellant states that respondent No.2 is the main accused, who has lodged serious assault on informant and has snatched amount as well as gold chain of informant. There are 7 crimes registered against respondent

No.2. Though the cash and gold chain were not recovered, Trial Court has erroneously allowed bail application of respondent No.2. He submits that the order passed by the Trial Court is perverse and it does not take into consideration the relevant aspects while granting bail.

6. Learned APP confirms the fact that there are 7 offences registered against respondent No.2. He, however, submits that charge sheet is filed in the present matter.

7. Learned advocate for respondent No.2 supports the impugned order.

8. Though it is a fact that 7 offences are registered against respondent No.2, Trial Court, by relying on ***“Prabhakar Tewari V/s State of U.P.” (2020) 1 (Crimes) SC 143***, has held that only on the basis that offences are registered against accused, bail cannot be refused.

9. Axe allegedly used by respondent No.2 – accused, is recovered. One of the accused person, namely Nitin Bhondve was arrested and he is released on regular bail. Trial Court has, therefore, held that since no further custodial interrogation of respondent No.2 is necessary, respondent No.2 deserves to be released on bail.

10. Taking into consideration the fact that charge sheet is filed, and the order granting bail is dated 28th August, 2023 and as no overwhelming circumstances are made out by appellant for cancellation of regular bail granted by Trial Court, this Court is not inclined to cancel the bail granted to respondent No.2.

11. In the result, appeal is rejected.

**[NITIN B. SURYAWANSHI]
JUDGE**

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