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IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPEAL NO.994 OF 2023

Subhash Shripat Chaudhari
Age – 60 years, Occ – Business
R/o Swami Narayan Nagar
Parola, Taluka – Parola
District – Jalgaon

APPELLANT

VERSUS

1. The State of Maharashtra
Through the Officer In charge
Parola Police Station, Parola
Taluka – Parola, District – Jalgaon
2. The Sub Divisional Police Officer /
The Deputy Superintendent of Police
Sub Division Amalner, District – Jalgaon
3. Satish Ratilal Chaudhari
Age – 50 years, Occ – Agriculture
R/o Sane Guruji Nagar
Near Kisan College, Parola
Taluka – Parola, District – Jalgaon

RESPONDENTS

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Mr. R. S. Deshmukh, Senior Advocate i/b Mr. Devang Deshmukh,
Advocate for the appellant

Mr. A. R. Kale, APP for respondent - State

Mr. V. S. Palsikar, Advocate for respondent No.3 (appointed)

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[CORAM : NITIN B. SURYAWANSHI, J.]

RESERVED ON : 7th FEBRUARY, 2024
PRONOUNCED ON : 4th MARCH, 2024

ORDER :

1. By this appeal, filed under section 14-A of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989, appellant challenges order dated 9th October, 2023 passed by learned Special Judge, Amalner, below Exhibit-50 in Special Case (Atrocity) No. 27 of 2023, thereby rejecting the prayer of appellant to grant regular bail.

2. Satish Ratilal Chaudhari lodged FIR on 26th April, 2023 with Parola Police Station, District – Jalgaon alleging that while he was going to his agricultural field, he noticed one person in seriously injured condition. The person had suffered injuries and blood was oozing from his forehead, lips and nose. One stone stained with blood was lying near him and at some distance one steel knife, used for cutting vegetable, was lying in broken condition. One cellphone was also found lying there. The cellphone started ringing and the informant picked up the phone and one Manohar Sandanshiv was on the phone and he told the informant that the injured person is Sharad Dagadu More, resident of Parola and presently was residing at Nashik. Manohar rushed on the spot with ambulance and injured was admitted in cottage hospital, Parola. During emergency treatment, injured

disclosed in stammering voice that Subhash Shripat Chaudhari and his colleagues have assaulted him with stone and also caused knife injuries on his stomach. However, at that time, he was not fully conscious. On the basis of information Crime No. 128 of 2023 was registered with Parola Police Station for offence punishable under sections 307, 326, 324, 323, 34 of the Indian Penal Code and under section 3 (2) and 3 (v) of the Atrocities Act. Appellant was arrested on 28th April, 2023, along with other accused persons, including his two sons, Bhushan and Akash and one Pawan Raju Bendwal and Faizan Shaikh Ibrahim, who are friends of Akash.

3. After completion of investigation, charge sheet is filed in the Trial Court on 10th July, 2023 and the case is numbered as Special Case (Atrocity) No. 27 of 2023. Application filed by appellant for regular bail is rejected by learned Special Judge and hence the present appeal.

4. Heard learned Senior Advocate for appellant, learned APP for the State and learned advocate appointed for respondent No.2 – informant. Perused the charge sheet.

5. Learned senior advocate contends that the incident of assault is alleged on 25th April, 2023 and injured Sharad More

expired four months after the incident on 3rd September, 2023 and after his death, supplementary charge sheet came to be filed. Cause of his death is shown as "*Coronary Artery disease with cerebro pulmonary edema*". Therefore, even if the prosecution case is taken as it is, considering the cause of death, section 302 of the Indian Penal Code is not attracted in the present case. According to him, there is no direct or indirect evidence against appellant and admittedly, the case of prosecution is based on circumstantial evidence and chain of circumstances is not complete in the present matter. Appellant is implicated in the present crime on account of previous enmity.

6. Learned advocate for respondent No.2 and learned APP, on the other hand, strenuously opposed the bail, by relying on the material collected during the course of investigation.

7. *Prima facie*, there appears sufficient material on record showing involvement of appellant in the present crime. Deceased was last seen together with appellant at his hotel. Appellant's brother has given a statement that he asked appellant to drop deceased at village Morphal for attending a marriage. Cook and waiter of the appellant's hotel have also confirmed the fact that on the date of incident at 4.30 p.m. deceased had come to the appellant's hotel and the waiter was asked by appellant to bring

coffee and water bottle for deceased. Some of the witnesses have confirmed the fact of deceased being seen at appellant's hotel along with appellant, on the day of the incident. Appellant owed an amount of Rs.25 lakh to deceased and an agreement was executed by appellant in favour of deceased. Deceased had filed Civil Suit for specific performance of the said agreement.

8. Independent witness Prashant Nagdeo, accompanied deceased in ambulance to Dhule, when he asked about incident, deceased took name of appellant and Bhushan Chaudhari in stammering voice.

9. Considering the material collected during investigation, it appears that appellant has motive to commit the crime. *Prima facie* complicity of appellant is made out in the present crime.

10. Taking into consideration the gravity of accusations and complicity of appellant, this is not a fit case to grant bail to appellant. Learned Special Judge is justified in rejecting bail application of appellant. No case is made out by appellant to cause interference in the order impugned in this appeal.

11. The appeal, being devoid of merit, is dismissed.

12. Fees of learned advocate appointed to represent

respondent No.2 be paid as per Schedule, within four weeks from today. It is made clear that trial court shall not be influenced by the observations made in this order at the time of trial.

[NITIN B. SURYAWANSHI]
JUDGE

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