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IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPEAL NO. 1079 OF 2023

Swapnil Sundar Changan

APPELLANT

VERSUS

The State of Maharashtra and Another

RESPONDENTS

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Mr. Mrigesh D. Nawadkar, Advocate for the appellant

Mr. C. V. Bhadane, APP for respondent - State

Ms. Pooja K. Apache, Advocate for respondent No.3 (appointed)

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[CORAM : NITIN B. SURYAWANSHI, J.]

DATE : 13th MARCH, 2024

ORDER :

1. Leave to add prayer clause.
2. This appeal, filed under section 14-A of the Scheduled Caste and the Scheduled Tribe (Prevention of Atrocities) Act, 1989, challenges order dated 3rd August, 2023 passed by Special (Atrocity) Judge, Beed in Criminal Bail Application No. 693 of 2023, thereby rejecting anticipatory bail application filed by appellant.
3. FIR is lodged by Mayur Sadashiv Hatagale, alleging that he belongs to Scheduled Caste and one Muktiram Jadhav was his neighbour. Quarrel had taken place between family members of informant and family members of Muktiram Jadhav on account of

blowing of horn of motorcycle. Report was lodged about the said quarrel. Thereafter, informant shifted to Balbhinagar Area of Peth Wadgaon. On 14th April, 2023, after watching procession of Dr. Babasaheb Ambedkar Jayanti, when informant was going to his house via Bashir Ganj, accused Rohit Jadhav, Rahul Jadhav and Swapnil Changan (appellant) followed him and while he was near Ashirwad Hospital, one of the accused hit small stone to him. When informant asked them about the same, accused Rohit started abusing him and asked him to withdraw the case lodged by informant against their family members else he would face dire consequences. All accused pounced on him, informant called his brother for help. At that time, appellant caught hold of informant and accused Rahul Jadhav inflicted knife blow on the right side of his chest. When his brother tried to rescue the informant, accused Rohit inflicted knife blow on the back of his brother. All the accused assaulted them with fists and kick blows and abused them loudly.

4. Heard learned advocate for appellant, learned APP for the State and learned advocate for respondent No.2 – informant. Perused the charge sheet filed in the present crime.

5. In the FIR, informant alleges that appellant caught him from behind and facilitated accused Rahul to assault him with

knife. Rahul has assaulted informant as well as his brother Amol. Rahul has abused them in the name of caste.

6. Statements of injured Amol and eyewitness, however, attributes act of assault with cutter, to present appellant. *Prima facie*, there appears material variance in the statements in the FIR and statements of injured and eyewitness.

7. Charge sheet is filed in the present crime. Accused Rohit and Rahul both are released on regular bail by the Sessions Court. Nothing is to be recovered from appellant. Therefore, his pre-trial custodial detention is not necessary.

8. Appellant is permanent resident of village Peth Beed and has deep roots in the society and he will not abscond if release don bail.

9. In the result, following order:-

ORDER

- A. Appeal is allowed.
- B. Impugned order dated 3rd August, 2023 passed by Special (Atrocity) Judge, Beed in Criminal Bail Application No. 693 of 2023 is quashed and set side.
- C. In the event of arrest of appellant in Crime No.88 of 2023

registered with Beed City Police Station, appellant - Swapnil Sundar Changan be released on furnishing Personal Bond and Surety Bond of Rs.15,000/- with one surety in the like amount. Appellant shall not tamper prosecution evidence.

- D. Learned advocate appointed for respondent No.3 be paid fees as per Schedule, within four weeks.

**[NITIN B. SURYAWANSHI]
JUDGE**