



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPEAL NO.1151 OF 2023

Akash S/o Ashok Upase

.... Appellant

Versus

The State of Maharashtra
and another

.... Respondents

.....

Mr. Gajanan Kadam, Advocate for the Appellant

Mr. K.B. Jadhav, APP for Respondent No.1 – State

Ms. Manjurshri N. Narwade Shenge, Advocate (appointed) for
Respondent No.2

.....

[CORAM : NITIN B. SURYAWANSHI, J.]

DATE : 08th 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 dated 09.11.2023 passed by Additional Sessions Judge, Nanded, in Special Case No.120 of 2023, thereby rejecting regular bail application filed by appellant.

2. Appellant is arrayed as accused in Crime No.524 of 2023, registered with Nanded Rural Police Station dated 16.07.2023, for offences punishable under sections 307, 324, 506 read with section 34 of the Indian Penal Code and sections 3(1)(r)(s), 3(2)(v), 3(2)(va) of Prevention of Schedule Caste

and Scheduled Tribe Act and section 3/25 of Arms Act, at the instance of Atul Vishwanath Dhotre, who has alleged that he is residing at Jay Hanuman Society Balirampur, Nanded. Accused persons are also residing of same Society. On 15.07.2023, at about 10.00 p.m. one Sindgikar called informant near Jai Hanuman Temple. When the informant went there, Akash Upase, Yash Rathod and Vyankatesh Sindgikar were present there. Appellant Akash Upase abused informant in the name of his caste. Informant told them not to abuse on caste, but accused Yash Rathod hit beer bottle on the head of informant. He also gave the blow of bottle on neck and stomach. Akash and Vyankatesh caught informant, and Akash pointed a country made pistol at informant and threatened to kill him.

3. Heard learned advocate for appellant, learned Additional Public Prosecutor for respondent No. 1-State and learned advocate for respondent No. 2. Perused the investigation papers.

5. Learned advocate for appellant has strenuously urged that since charge-sheet is filed in the present matter and a country made pistol is recovered, which did not contain any cartridge/bullet, further custodial detention of appellant is not necessary in the present case.

6. During the course of investigation, country made pistol is recovered from appellant. Appellant is a habitual offender against whom crime bearing Nos.236/2020, 477/2020 and 731/2020 are registered for offences punishable under sections 326, 325, 341,323, 504, 506 and 188 of the Indian Penal Code, which are pending.

7. Considering injuries suffered by informant and the weapons used in the offence, this is not fit case to grant bail to appellant. Sessions Court is justified in rejecting bail application of appellant by giving cogent reasons. No case is made out by appellant to warrant interference in the said order. Appeal being devoid of merits is dismissed.

8. High Court Legal Services, Sub Committee, Aurangabad, to pay fees of learned advocate appointed to represent respondent No. 2, as per rules, within four weeks from the date of receipt of order.

[NITIN B. SURYAWANSHI]
JUDGE

S.P Rane