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IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPEAL NO.1181 OF 2023

Mahesh Nagnath Murage

APPELLANT

VERSUS

The State of Maharashtra and Another

RESPONDENTS

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Mr. Pankaj A. Bharat, Advocate for the appellant

Mrs. V. S. Chaudhari, APP for respondent - State

Mr. D. B. Sadaphule, Advocate for respondent No.2

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[CORAM : NITIN B. SURYAWANSHI, J.]

DATE : 29th JANUARY, 2024

ORDER :

1. This appeal takes exception to order dated 4th December, 2023 passed by learned Additional Sessions Judge, Udgir in below Exhibit-7 in Special Case No.65 of 2023, thereby rejecting regular bail application of appellant.

2. Crime No. 591 of 2023 is registered with Udgir Rural Police Station for offence punishable under section 302, 323 read with 34 of the Indian Penal Code, at the instance of Ramesh Chandar Kamble on 26th September, 2023. It is alleged in the FIR that Suresh, brother of informant, was taken away by four accused persons Wahab Shaikh, Adil Kadri, Mahesh Murge and Junaid

Shaikh, as accused Wahab's cellphone was stolen by Suresh. All the accused persons assaulted Suresh on that count and he expired due to the said assault. Regular bail application filed by appellant is rejected by the Trial Court, hence the present appeal.

3. Heard learned advocate for appellant, learned APP for State and learned advocate for the informant – respondent No.2. Perused the charge sheet.

4. Learned advocate for informant submits that offence alleged against appellant is serious and brother of informant is brutally killed by all the accused persons. Appellant resides in the same locality where informant is residing and, therefore, there is every possibility that appellant will tamper prosecution evidence.

5. Perusal of charge sheet shows that except last seen together, there is no material against present appellant. Even the eyewitnesses do not attribute assault by present appellant on the deceased.

6. Appellant is arrested on 26th September, 2023 and charge sheet is filed on 23rd November, 2023. Since investigation is complete and taking into consideration the material against

present appellant, his further custodial detention is not necessary. Appellant is permanent resident of Udgir and has deep roots in the society and will not abscond if released on bail. Appellant, since belongs to Schedule Tribe, provisions of Atrocities Act are not attracted against appellant.

7. Appeal is, therefore, allowed. Impugned order dated 4th December, 2023 passed by learned Additional Sessions Judge, Udgir in below Exhibit-7 in Special Case No.65 of 2023 is hereby quashed and set aside. Appellant - Mahesh Nagnath Murage be released in Crime No. 591 of 2023 is registered with Udgir Rural Police Station on furnishing PB and SB of Rs.15,000/- with one surety in the like amount. Appellant shall not, in any manner, contact prosecution witnesses and / or shall not tamper prosecution evidence.

[NITIN B. SURYAWANSHI]
JUDGE