



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

15 CRIMINAL APPEAL NO. 152 OF 2024

Chandrahas @ Raj Subhash Ubale ...Appellant

Versus

1. The State of Maharashtra
2. Sanjay Madhukar Pawar ...Respondents

...
Advocate for Appellant : Mr. M.S. Shaikh h/f Mr. Suyashkumar S
Jangada
APP for Respondent No.1 Mr. C.V. Bhadane
Advocate for respondent No.2. : Ms. Yugandhara A. Namde
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CORAM : SHIVKUMAR DIGE, J.
DATED : 22nd JULY, 2024.

PER COURT :-

1. This appeal is preferred against the order dated 01.08.2023 passed by the Judge, Special Court, Kopargaon below Exh.154 in Special Case No. 52 of 2021 filed in pursuance of FIR No. 237 of 2021 registered with Shirdi Police Station, Tq. Rahata, District Ahmednagar for the offences punishable under sections 302, 307, 120(B), 201 r.w. 34 of the Indian Penal Code (For short, "I.P.C.") and sections 3(2)(v-a) and 3(2)(v) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989.

2. It is the case of the prosecution that on 29.6.2021, the

informant Sanjay Pawar gave information to the police that on that day at about 6.30 p.m. after completion of their centering work of the building of Shri Bhansali, Chitali Road, Rahata, he and his cousin Rajendra were returning to their house by bicycle. At about 7.30 p.m. they stopped in an open space opposite to hotel Palacius and consumed the liquor there. At that time, four unknown boys from the age of 18 to 22 years came on two motor cycles and asked them for match box. The informant told them that he did not have match box. However, Rajendra gave a match box and kept it on the seat of the bicycle and asked them to take the same. Since the match box was not given immediately and it was not handed over to them, they gave angry stare to Rajendra. Thereafter, they took the match box and went to back side where the informant and Rajendra were sitting. Thereafter, suddenly two boys came with two sharp edged weapons and assaulted Rajendra on his head and abdomen. The informant ran away from the spot. Thereafter, injured Rajendra was taken to the hospital. While taking treatment he died. During the course of investigation, the appellant came to be arrested alongwith the co-accused in connection with the said crime.

3. It is the contention of the learned counsel for the appellant that co-accused have been released on bail. Learned counsel further submitted that though in the F.I.R. it is mentioned that four persons

attacked on the informant but seven persons have been arrested in connection with the said crime. Learned counsel further submitted that though in identification parade the appellant has been identified as the person who assaulted the deceased but no specific role is attributed to him and witnesses have not stated that he assaulted the deceased. Learned counsel further submitted that the other co-accused have been released on bail, hence the appellant is entitled for bail on the principle of parity. Learned counsel further submitted that investigation is complete and charge sheet has been filed, hence further detention of the appellant is not required and requested to allow the appeal.

4. It is the contention for learned A.P.P. alongwith learned counsel for the respondent No.2 that the appellant is contractual killer. The accused No.1 had given contract to the present appellant and his accomplice to kill the deceased as there were inimical terms between the accused No.1 Amol Londhe and the deceased. Learned A.P.P. further submitted that the appellant had assaulted the deceased with knife. He gave blow of knife and caused injuries to the deceased. The knife used in the crime is recovered from the house of the appellant at his instance under Section 27 of the Indian Evidence Act. Learned A.P.P. further submitted that the photograph of the deceased is recovered at the instance of the appellant.

Learned A.P.P. further submitted that the appellant is identified in the identification parade. The appellant is the person who assaulted the deceased with knife. The report of forensic laboratory in respect of the knife recovered at the instance of the appellant, stab injuries found on the body of the deceased, the nature of the injuries and the knife are same to show the involvement of the appellant in the crime. Learned A.P.P. further submitted that yet charge has not been framed. If the appellant is released on bail he may influence the prosecution witnesses or he may abscond. Hence, requested to reject the appeal.

5. I have heard all the learned counsel. Perused the charge sheet and the police papers produced on record. The allegations against the appellant are that he is contractual killer. He had taken contract from accused No.1 Amol Londhe to kill deceased Rajendra as there was dispute between deceased and accused No.1 Amol Londhe. The informant is eye witness to the incident. He has identified the appellant in the identification parade. Under section 27 of the Evidence Act, at the instance of the appellant, the police have recovered the knife used in the crime. The cause of death is "due to hemorrhagic shock due to multiple stab injuries over abdomen with chop wound over head." The investigating officer had called a report from the Medical Officer, Pravara Hospital, Loni, who opined that the

injuries caused by the knife recovered at the instance of the appellant can be possible. The report of the Medical Officer dated 24.7.2021 shows that all injuries mentioned in column no. 17 of MLPM report 165/2021: deceased Rajendra Antwan Dhiwar cannot be denied. It shows that the injuries caused to the deceased can be possible by the knife recovered at the instance of the appellant. The document filed alongwith the charge sheet show the involvement of the appellant in the crime. It appears from the charge sheet that the appellant is contractual killer. Yet the charge has not been framed against the appellant. If the appellant is released on bail he may abscond or he may influence the prosecution witnesses. The trial court has passed the well reasoned order while denying the bail to the appellant. I do not find any infirmity in it and I pass the following order:-

O R D E R

The appeal is dismissed.

6. Since Ms. Yugandhara A. Namde, is appointed to represent the respondent No.2, her legal fees and expenses is quantified at Rs.5000/- to be paid by the High Court Legal Services Sub Committee, Aurangabad.

(SHIVKUMAR DIGE, J.)