

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPEAL NO.729 OF 2024

Baljaji Limbaji Kadam

...Appellant

V/s.

State of Maharashtra and Anr.

...Respondents

Mr. Tushar Sonawane *with Ms Pooja Satpute for the Appellant.*

Ms Anuja Gotad, *APP for Respondent No.1-State.*

Mr. Ankur Pahade, *appointed Advocate for Respondent No.2.*

Mr. Sudhakar D. Hembade, *HC, Pandharpur Police Station, present.*

CORAM : SANDEEP V. MARNE, J.

Dated : 9 August 2024.

PC. :

1) This appeal under Section 14-A of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 (**SCST Act**) challenges order dated 6 July 2024 passed by the learned Special Judge, Pandharpur, rejecting Criminal Bail Application No.537 of 2024 filed by the Appellant in connection with Crime No.506 of 2024 registered with Pandharpur Taluka Police Station for the offences punishable under Sections 324, 326 and 506 r/w 34 of the IPC and Sections 3(1)(r)(s), 3(2)(v) of the SCST Act.

2) The prosecution story in brief is that the Complainant is a friend of accused No.1-Rushikesh Shahaji Bhosale. The present Appellant is Rushikesh's uncle. On 17 June 2024, at 4.00 p.m. an argument took

place between the Complainant and Rushikesh. At 6.00 pm. when the Complainant was on his way to deliver milk in the dairy, the Appellant stopped Complainant and questioned him about the argument with Rushikesh and about threatening him. It is alleged that the Appellant caught hold of the Complainant from behind and at that time, Rushikesh assaulted him with an axe on his head and left shoulder.

3) It is prosecution case that since the Complainant was injured on 18 June 2024, his supplementary statement was recorded on 20 June 2024, in which the Complainant gave accounts of caste-based utterances on the part of the Appellant and Rushikesh. This is how provisions under the SCST Act are also added.

4) I have heard Mr. Sonawane, the learned counsel for the Appellant, Ms Anuja Gotad, the learned APP for Respondent No.1-State and Mr. Ankur Pahade, the learned counsel appointed through Legal Aid Panel to represent Respondent No.2-Complainant.

5) The FIR clearly indicates that main accusation of assault is against accused No.1-Rushikesh. So far as the Appellant is concerned, his role is restricted only to catching hold of the Complainant. In the supplementary statement dated 20 June 2024, certain caste-based utterances are also sought to be ascribed against the Appellant. The Appellant has been in custody since 21 June 2024.

6) The main reason for rejection of the Appellant's bail by the learned Special Judge on 6 July 2024 was non-arrest of accused No.1-Rushikesh. However, Rushikesh has now been arrested on 18 July 2024 and the weapon has been recovered. Though for some unfathomable

reason, investigations are still said to be incomplete, the Appellant cannot be continued in incarceration indefinitely till police records statements of the alleged eye witnesses. In fact, statements of the alleged eye witnesses ought to have been recorded during the long time gap of almost two months from the date of lodging of the FIR.

7) Considering the nature of allegations that are levelled against the Appellant, coupled with the fact that the main accused-Rushikesh is now arrested and the weapon has been recovered, in my view the Appellant can now be enlarged on bail.

8) I accordingly proceed to pass the following order:-

- (a) Order dated 6 July 2024 passed by the learned Special Judge, Pandharpur, in Criminal Bail Application No.537 of 2024 is set aside.
- (b) The Appellant, who is arrested in connection with Crime No.506 of 2024 registered with Pandharpur Taluka Police Station for the offences punishable under Sections 324, 326 and 506 r/w 34 of the IPC and Sections 3(1)(r)(s), 3(2)(v) of the SCST Act, shall be released on bail on furnishing PR bonds in the sum of Rs.25,000/- with one or two sureties in the like amount.
- (c) The Appellant shall furnish identity and address proof of himself and of his two blood relatives while furnishing sureties.
- (d) The Appellant shall mark his presence before the concerned Investigating Officer twice a week till the charge- sheet is filed.
- (e) The Appellant shall not contact any witnesses nor shall tamper with the evidence in any manner.

- (f) The Appellant shall keep the Investigating Officer informed of his current address and mobile contact numbers, and /or change of residence or mobile details, if any, from time to time.
- (g) Unless exempted, the Appellant shall attend the Trial Court regularly. The Appellant shall co-operate with the Trial Court and shall not seek unnecessary adjournments.
- (h) In the event of violation of any of the conditions, the liberty is granted to the Complainant to apply for cancellation of bail.

9. With the above directions, the appeal is allowed and disposed of.

[SANDEEP V. MARNE, J.]