



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

CRIMINAL APPEAL NO. 41 OF 2024

OMKAR BANSI SUKATE

..APPELLANT

VS.

THE STATE OF MAHARASHTRA AND ANR.

..RESPONDENTS

Mr. Aniket Nikam a/w Satyajeet Mane i/b Mr.Amit Icham, for the appellant.

Ms. Aditi M. Athawale, for respondent no.2.

Mr. S. H. Yadav, APP for the State.

HC-Mr. A.S. Shinde, Panchavati police station present.

CORAM : M. S. KARNIK, J.

DATE : MARCH 19, 2024

JUDGMENT :

1. Heard learned counsel for the appellant and learned APP for the State.

2. This is an appeal for quashing and setting aside the order dated 18/12/2023 passed by the Additional Sessions Judge-2, Nashik below Exhibit 17 rejecting the application of the appellant for bail in respect of the offence punishable under section 302 read with 34 of the Indian Penal Code, 1860 and under section 3(2)(5) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 registered on 11/05/2023 vide C.R. No. 232 of 2023 with Panchvati police station.

3. The date of the incident is 14/04/2023. The incident happened at around 8.30 p.m. The FIR is dated 11/05/2023. The appellant was arrested on 12/05/2023. The case of the prosecution is that at the instance of the deceased Hemant, his friend Vishant had slapped the mother of the present appellant. The appellant as well as the deceased were living in the same slum area. The appellant was angered by the act of Vishant slapping his mother. He therefore went to the place of incident where the deceased was in the company of his friends. It is alleged that the appellant and 2 of his friends assaulted him by fist and kick blows. One of the accused threw him on the ground. It is then alleged that when Hemant got up, the appellant gave one blow on the back of his head with a plastic pipe as a result of which Hemant fell down.

4. Learned APP as well as the respondent no.2 opposed the application. It is submitted that there are eye- witnesses to the incident indicating that the appellant had taken an active part in the assault. It is submitted that the appellant had a motive to assault Hemant and he took his friends along with him to assault him. It is also submitted that the

appellant may threaten and influence the witnesses if enlarged on bail.

5. There are eye witnesses to the incident. Though the incident is dated 14/04/2023, in the statement dated 15/04/2023, the complainant reported that his son Hemant accidentally fell from the bike. In the statement dated 30/04/2023, the complainant mentioned that some unknown persons had assaulted Hemant. On 01/05/2023, the complainant gave a statement that on 14/04/2023 itself, he came to know that Hemant was assaulted with plastic pipe by the present appellant on account of some grudge that he had. The FIR was registered on 11/05/2023. There is delay in recording the statements of the eye witnesses. The appellant's mother was slapped by Vishant at the instance of the deceased. This appears to be the trigger which provoked the appellant.

6. The appellant was arrested on 12/05/2023. The appellant is in custody for almost 10 months. There are no criminal antecedents reported against the appellant. In the facts and circumstances of the present case, I am inclined to enlarge the appellant on bail by imposing conditions. The

investigation is complete. The charge-sheet is filed.

Hence, the following order :-

ORDER

(a) The appeal is allowed.

(b) The impugned order dated 18/12/2023 passed by the trial Court is quashed and set aside.

(c) The appellant- Omkar Bansi Sukate in connection with C.R. No.232 of 2023 registered with Panchvati police station shall be released on bail on his furnishing P.R. Bond of Rs.50,000/- with one or more sureties in the like amount.

(d) The appellant shall not enter the jurisdiction of Panchvati police station till the conclusion of the trial.

(e) The appellant shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing the facts to Court or any Police Officer. The appellant shall not tamper with evidence.

(f) On being released on bail, the appellant shall furnish his contact number and residential address to the investigating officer and shall keep him updated, in case there is any change.

(g) The appellant shall attend the trial regularly. The appellant shall co-operate with the trial Court and shall not seek unnecessary adjournments.

(h) It is made clear that if it is brought to the notice of the trial Court that the appellant has committed breach of any of the conditions or influenced the witnesses, the same shall afford a ground to the prosecution to apply for cancellation of bail.

7. The appeal is disposed of.

8. I appreciate the valuable assistance rendered by Ms.Aditi M. Athawale, the learned Advocate, who appeared on behalf of respondent No.2 in this proceeding at my request. Her engagement be regularized by the Maharashtra State Legal Services Authority.

(M. S. KARNIK, J.)