

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**CRIMINAL APPELLATE JURISDICTION****CRIMINAL APPEAL NO.639 OF 2024****Satyawan Sukhdev Nimse****....Appellant****V/s.****The State of Maharashtra and Anr.****....Respondent**

Mr. Prashant Aher with Mr. Vipul Patil for the Appellant.**Ms Shilpa G. Talhar, APP for the Respondent No.1-State.****Ms Meghna Gowalani for Respondent No.2.****Mr. S.G. Shingade, PN, Alephata Police Station, Pune (R), present.**

CORAM : SANDEEP V. MARNE, J.**Dated : 18 July 2024.****P.C. :**

1) This is an application filed under the provisions of Section 14-A of the Schedules Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 (**SCST Act**) challenging the order dated 13 June 2024 passed by the learned Additional Sessions Judge, Khed-Rajgurunagar, Pune, rejecting the application for bail filed by the Appellant under the provisions of Section 439 of the Code of Criminal Procedure, 1973 in connection with C.R. No.161 of 2024 registered with Aalephata Police Station, for the offences punishable

under Sections 307, 323, 504 and 506 of the IPC and Section 3(2)(v) of the SCST Act.

2) The prosecution story is that the First Informant is a minor residing with her parents at village-Nimsemala Ale, Taluka-Junnar, District-Pune. According to the First Informant her family owns land bearing Gut No.2403 in the village and that the Appellant has committed encroachment in respect of the land admeasuring 3 *Gunthas*. On account of this, there have been constant fights between the family of the First Informant and the Appellant/accused. In her statement, the First Informant has referred to the previous incident on 12 May 2023 when she was allegedly molested by the Appellant's wife and other relatives in respect of which C.R. No.227 of 2023 is registered under the provisions of the IPC, SCST Act as well as the Protection of Children from the Sexual Offences Act, 2012 (**POCSO Act**).

3) The incident concerning the FIR dated 21 May 2024 has allegedly occurred on 19 May 2024 when the Appellant allegedly dashed the First Informant with his car with intention of killing her. The First Informant has apparently suffered injuries on head and chest and was required to undergone CT scan. The Appellant came to be arrested on 23 May 2023 and has been in custody since then.

4) I have heard Mr. Aher, the learned counsel appearing for the Appellant, who would submit that the entire accusations against the Appellant are false. That the Appellant was driving Tata Nano car and it is impossible that the First Informant suffered any grievous injuries arising out

of the alleged accident. That her version is clearly unbelievable on account of the fact that report of the concerned Investigating Officer dated 22 May 2024 refers to the First Informant falling on the bonnet of the car. He would submit that Tata Nano does not have any bonnet, which clearly indicates the falsity in the entire accusations. He would submit that the FIR is lodged essentially to settle the land dispute. He has submitted that the Appellant has been in custody for sufficiently long period of time and has fully co-operated with the investigations by surrendering his car. He has submitted that the investigations are complete and the charge-sheet has been filed and that the Appellant deserves to be enlarged on bail.

5) Ms Talhar, the learned APP would submit that the investigations into the crime are complete and charge-sheet has been filed on 15 July 2024. She would however oppose the appeal on the ground that the crime committed by the Appellant is of serious nature and since Section 307 is attracted carrying sentence upto 10 years, provisions of Section 3(2)(v) of the SCST Act are clearly attracted in the present case.

6) Ms Gowalani, the learned counsel appearing for the First Informant would oppose the appeal submitting that since Section 307 is alleged against the Appellant carries sentence upto 10 years, the present case involves Section 3(2)(v) of the SCST Act and therefore bar under Section 18 of the SCST Act would be attracted in the present case. She would submit that the Appellant has intentionally and knowingly committed the act with intention of killing the First Informant. That she has suffered grievous injuries on head and chest and was required to undergo CT scan. That this is not the

first time that the First Informant and her family are assaulted. That on 12 May 2023 as well the Appellant's wife and other relatives had molested the First Informant. That the incident of 19 May 2024 has occurred essentially on account of repeated insistence and pressure by the Appellant for withdrawal of the complaint in respect of incident dated 12 May 2023. That the Appellant is fully aware of the caste of the First Informant and has knowingly committed the crime attracting the provisions of Section 3(2)(v) of the SCST Act. She would therefore, pray for dismissal of the appeal.

7) After having considered the submissions canvassed by the learned counsel for the respective parties, it is seen that the FIR itself refers to pendency of civil dispute between the parties relating to land Gut No.2403 in village-Nimsemala Ale, Taluka-Junnar, District-Pune. According to the First Informant the Appellant has unauthorisedly encroached upon land admeasuring 3 *Gunthas* belonging to family of the First Informant. The First Informant herself admit in her statement that they had frequent fights between the two families over the land dispute. It appears that in May 2023 as well there has been one incident of fight between the families. This is the second incident, which has allegedly occurred on 19 May 2024 where the Appellant allegedly dashed against the First Informant owing to cause of injuries to her. Therefore, what must be borne in mind at this stage is existence of civil dispute relating to encroachment on land, between the parties.

8) The Appellant has been arrested on 23 May 2024 and has been in custody for almost two months by now. The investigations into the crime are

already completed and charge-sheet has been filed on 15 July 2024. Except attracting Section 3(2)(v) of the SCST Act on account of Section 307 of the IPC carrying maximum sentence for 10 years, there is no allegation with regard to caste based abuses on the part of the Appellant towards the First Informant. The case thus, essentially arises out of sections under the IPC and only because one of the sections carries punishment of 10 years, section 3(2)(v) of the SCST Act is added in the present case.

9) In my view considering the facts and circumstances of the present case, the Appellant cannot be incarcerated for indefinite period of time. The Trial is not likely to conclude in near future. In that view of the matter the Appellant deserves to be enlarged on bail.

10) I accordingly proceed to pass following order:

- (a) The Appellant, who has been arrested in connection with C.R. No.161 of 2024 registered with Aalephata Police Station, Pune (R), for the offences punishable under Sections 307, 323, 504 and 506 of the IPC and Section 3(2)(v) of the SCST Act shall be released on cash bail in the sum of Rs.25,000/- for a period of four weeks.
- (b) The Appellant shall within the said period of four weeks furnish PR bonds in the sum of Rs.25,000/- with one or two solvent sureties in the like amount.
- (c) Appellant shall not pressurize Respondent No.2 or any other witnesses acquainted with the facts of the case nor shall tamper with the evidence either directly or indirectly.

- (d) Appellant shall furnish identity and address proof of himself and of his two blood relatives while furnishing sureties.
- (e) Appellant shall attend Trial Court regularly unless exempted from personal appearance.
- (f) The Appellant shall inform his latest place of residence and mobile contact number immediately after being released on bail and/or change of residence or mobile details, if any, from time to time to the Trial Court as well as to the concerned Police Station in writing.
- (g) If there are two consecutive defaults in appearing before the Trial Court, the prosecution would be at liberty to file an application seeking cancellation of bail.

11. The application stands disposed of.

[SANDEEP V. MARNE, J.]