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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

CRIMINAL APPEAL NO.309 OF 2024

Ganesh s/o Kailash Sachan,
Aged about 42 Years,
Occupation – Labour,
R/o. Borgaon Dharmale,
Tahsil and District – Amravati.

..... APPELLANT

// VERSUS //

1. State of Maharashtra,
Through Police Station Officer,
Police Station, Pathrot,
Tahsil Achalpur, (Amravati Rural),
District – Amravati.

2. Tarun s/o Shrikrishna Gautam,
Aged about 23 Years,
Occupation -
R/o. Valmikipur, Pathrot,
Tahsil Achalpur, District – Amravati.

.... RESPONDENTS

Mr. P. V. Navlani, Advocate for the appellant.
Mr. N. B. Jawade, APP for respondent No.1/State.
Ms. C. S. Bhute, appointed Advocate for respondent
No.2.

CORAM : URMILA JOSHI-PHALKE, J.
DATED : 30.07.2024

ORAL JUDGMENT :

1. Heard.

2. **Admit.**

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3. By preferring this appeal, the appellant has challenged the order dated 30.04.2024 passed by the learned Additional Sessions Judge - 2, Achalpur in Criminal Bail Application No.168/2024 by which the application of the present appellant for grant of bail is rejected.

4. The appellant is prosecuted in connection with Crime No.3/2024 registered under Section 302 and 201 read with Section 34 of the Indian Penal Code and under Section 3(2)(v) of the Scheduled Caste and the Scheduled Tribes (Prevention of Atrocities) Act, 1989. The crime is registered on the basis of report lodged by Tarun s/o Shrikrishna Gautam on an allegation that on 03.01.2024 at about 12.00 p.m. the deceased was found dead in hotel Atithi, where he was working. The informant was the stepbrother of the deceased Sandip. It is alleged that there were strained relations between the deceased and co-accused Ankush and the said co-accused Ankush threatened the informant that the deceased was humiliating him on various occasions on account of attending the work late and he would kill him and subsequently with the help of the present appellant, he has eliminated the deceased. On the

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basis of the said report, police have registered the crime against the present appellant.

5. Learned Special Court has considered that the allegation against the present appellant is serious in nature. The present appellant was working along with the deceased. The co-accused and the present appellant have eliminated the deceased as there was a quarrel between the co-accused Ankush and the deceased Sandip. Learned trial Court further considered that though there are no criminal antecedents, but considering the gravity of the offence, the application deserves to be rejected.

6. Being aggrieved and dissatisfied with the same, the present appeal is preferred by the appellant. Learned Counsel for the appellant submitted that except the report of the Dog's Squad, there is no other material against the present appellant to connect him with the alleged offence. He further submitted that said Dog's Squad report is also connecting the co-accused Ankush. As far as the present appellant is concerned, there is absolutely no evidence to connect him with the alleged offence. He submitted that the entire case is rested on the circumstantial evidence and

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there is no direct evidence, but even none of the circumstances pointed towards the guilt of the accused. Now, the investigation is already completed and charge-sheet is filed. In view of that, the order passed by the learned Special Court deserves to be quashed and set aside and appellant be released on bail.

7. Learned APP strongly opposed the said application on the ground that during the investigation, the involvement of the present appellant is revealed. The offence is of grievous nature. If the appellant is released on bail, he would tamper the prosecution evidence and would not be available for trial. He also placed on record the statements under Section 164 of the witnesses.

8. After hearing the learned Counsel for the appellant and learned APP for the State, perused the investigation papers. Admittedly, the entire case is rested on the circumstantial evidence as there is no direct evidence in the nature of the eye witnesses. As far as the involvement of the present appellant is concerned, there is absolutely no circumstance came on record to show his connection with the present incident, only the circumstance

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is that he was working with the deceased. Except that, there is absolutely no material to connect the present appellant with the alleged offence. As far as the Dog's Squad report is concerned, which is pointing out towards the co-accused Ankush and not towards the present appellant. Considering that, now, the investigation is completed and the nature of evidence collected by the investigating agency to connect the present appellant. The appellant has made out a case for grant of bail. In view of that, order passed by the learned Special Court deserves to be quashed and set aside. Accordingly, I proceed to pass following order:

ORDER

- (i) The appeal is allowed.
- (ii) The order dated 30.04.2024 passed by the learned Special Judge/Additional Sessions Judge – 2, Achalpur in Criminal Bail Application No.168/2024 is hereby quashed and set aside.
- (iii) The appellant **Ganesh s/o Kailash Sachan** shall be released on bail on executing PR bond in the sum of Rs.25,000/- with one solvent surety in the like amount, in connection with Crime No.3/2024 registered with Police Station Pathrot, District Amravati for the offences punishable under Sections 302 and 201 read with Section 34 of the Indian Penal Code and Section 3(2)(v) of the Scheduled Castes and

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the Scheduled Tribes (Prevention of Atrocities) Act, 1989.

(iv) The appellant shall not leave the jurisdiction of Achalpur Division without prior permission of the District Court, Achalpur.

(v) The appellant shall attend the concerned Police Station once in a month on 1st of every month, till culmination of the trial.

(vi) The appellant shall not induce, threat or promise any witnesses who are acquainted with the facts of the case.

9. The appeal is disposed of.

10. The fees of the appointed Counsel be quantified as per rules.

(URMIL A JOSHI-PHALKE, J.)

Sarkate.