



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
NAGPUR BENCH, NAGPUR.**

CRIMINAL APPEAL NO.365 OF 2024

Pandurang s/o Maroti Deotale
Aged about 47 years, Occupation – Agriculturist,
R/o Selu-Murpad, Tahsil Hinganghat,
District Wardha

...APPELLANT

VERSUS

1. State of Maharashtra,
through Police Station Officer,
Police Station Hinganghat,
District Wardha
2. Manisha w/o Arvind Uikey,
Aged about 28 years,
Occupation – Labour,
R/o. Selu-Murpad,
Tahsil Hinganghat, District Wardha

...RESPONDENTS

Corrected as per
Court's order dated
30/09/2024.

Mr. S.V. Manohar, Sr. Advocate a/b Mr. A.S. Manohar, Advocate for the
appellant.
Mr. K.R. Lule, APP for the State.
Ms B.N. Gavhale, Advocate for respondent No.2.

CORAM : URMILA JOSHI-PHALKE, J.

DATED : SEPTEMBER 23, 2024.

ORAL JUDGMENT :

ADMIT. Heard finally with the consent of learned Counsel
for the parties.

2. This is an appeal under Section 14A of the Scheduled Caste and Scheduled Tribe (Prevention of Atrocities) Act, 1989, the appellant has challenged the order dated 07.05.2024 whereby the Judge (Special Court), Court No.2, Hinganghat rejected the bail application of the appellant bearing Special Case No.40/2023.

3. The accusation against the present appellant is on the basis of report lodged by the informant on an allegation that the deceased is her brother-in-law and was involved in various crimes registered at Hinganghat Police Station for the offence punishable under Section 379 of the Indian Penal Code and under the provisions of 307 of the IPC 4/25 of the Arms Act and under Section 397, 394 of the Indian Penal Code. Recently, he was released from jail on 01.08.2023 i.e. prior to lodging of the FIR. On 09.08.2023, when her brother-in-law was returning from the agriculture field along with her husband. The motorcycle of one Subhash Madavi was fallen on the ground, due to push of the deceased. Thereafter, the deceased came at home. At the relevant time, at about 10.00 PM, the husband of the informant received a call wherein the whereabouts of the deceased was asked, as the phone call was on speaker deceased had heard the communication that co-accused Sharad Satpute was asking where is deceased and asked him to come at bus stop. After hearing this the deceased immediately proceeded towards the bus stop, he was followed by the husband of the informant

as well as father-in-law and mother-in-law of the informant. The informant has also followed them and witnessed that 18-20 people were chasing the deceased including the present appellant and other co-accused. They caught him and assaulted by means of wooden sticks and wooden log. Due to the assault, the deceased has sustained the grievous injury and succumbed to the death. As far as the present appellant is concerned, there is specific allegation that he has assaulted the deceased by means of hammer on his head and caused his death. On the basis of the said report, police have registered the crime against the present appellant and other co-accused for the offence punishable under Sections 143, 147, 148, 302, 323 read with Section 149 of the Indian Penal Code and under Section 135 of the Maharashtra Police Act and Sections 3(2)(v) and 3(2)(va) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 (hereinafter referred to as 'the Act of 1989').

4. After registration of the crime, the appellant approached to the learned Special Court for grant of bail but the same was rejected by the Special Court observing that the vital role is attributed to the present appellant and *prima facie* case is made out against the present appellant and rejected the application.

5. Being aggrieved and dissatisfied with the said order of rejection, the present appeal is preferred under Section 14-A of the Act of 1989.

6. Learned Senior Counsel for the appellant submitted that from the recitals of the FIR it reveals that the deceased was of a criminal background and various offences are registered against him. At the relevant time, 18 – 20 villagers have chased the deceased and in the said incident, the deceased was assaulted by the villagers and his death is caused. He submitted that as far as the allegations against the present appellant is concerned which are falsified by the other material which is collected during the investigation. He pointed out from the spot panchnama that at the spot one stone was recovered by the investigating agency which is having blood stains. He further pointed out the inconsistent statements of the witnesses and the Investigating Officer has only recorded the statements of the family members of the deceased. He submitted that the prosecution story itself shows that more than 100 people were present at the spot of incident and then also only the statement of the relatives of the deceased were recorded and no statements of the independent witnesses are recorded. From the said statements also he pointed out that there are inconsistent statements as far as the role of the present appellant is concerned. He submitted that some of the witnesses have attributed the role to the present appellant

that he has assaulted by hammer whereas some of the witnesses have not stated anything that the present appellant participated in the assault and he assaulted by hammer. He pointed out from the charge-sheet that during investigation the CDR report was collected and the said CDR report shows that the present appellant was not present at the spot at the time of the incident. He submitted that alleged incident has taken place at about 10.00 PM. At the relevant time, the location of the present appellant as per the CDR report is shown as Ladki Chichghat, post Chincholi, Taluka Hinganghat whereas the alleged incident has taken place at Murpad. Thus, he submitted that this inconsistent investigation itself is sufficient to show that the appellant was not involved in the alleged offence. Now the investigation is completed and charge-sheet is filed, further incarceration of the present appellant is not required. In view of that, he be released on bail.

7. Learned APP strongly opposed the appeal and submitted that the present appellant has played the vital role who has assaulted by means of hammer and death of the deceased is caused due to the head injury. Considering the *prima facie* case against the present appellant, appeal deserves to be rejected.

8. Learned Counsel appearing for respondent No.2 endorsed the same contention and submitted that if he is released on bail there is

apprehension of assault by the present appellant to all the family members of the deceased. In view of that, the application deserves to be rejected.

9. After hearing both the sides and on perusal of the investigation papers, it reveals that at Hinganghat Police Station in all six offences are registered against the deceased for the offence punishable under Section 307 of the IPC and 4/25 of the Arms Act as well as under Sections 397, 394 of the Indian Penal Code. The investigation papers further shows that prior to the incident on 01.08.2023, the deceased was released on the bail as he was involved in the crime of theft. From the statement of the informant also it reveals that several offences are registered against the deceased. As far as the incident is concerned, the informant has attributed specific role to the present appellant that he has assaulted by means of hammer whereas father of the deceased has not stated as far as the role of the present appellant that he has assaulted by means of hammer. The weapon was not referred to the chemical analysis though it was suggested by the Medical Officer to refer it for the chemical analysis. As far as any blood stains are concerned there is no material to show that any blood stains are found on the said hammer. On the contrary, spot panchnama shows that blood stains are found on the stone which is collected from the spot of incident. Thus, considering the fact that 30 – 35 people were gathered at the bus stop and they were

chasing the deceased. The deceased was attempting to run here and there to save himself from the clutches of 30 – 35 persons. It is alleged that the said 30 – 35 persons have caught him and assaulted him due to which he sustained the injuries and the death is caused. As far as the role of the present appellant is concerned there are inconsistent statements of the witnesses. Moreover, the statements of the independent witnesses are not recorded. The incriminating weapon though seized which does not contain the blood stains. On the contrary, the spot panchnama shows that one stone was seized from the spot which contains the blood stains. Considering now investigation is completed and charge-sheet is filed and considering the nature of the evidence which is collected during the investigation, the appellant has made out a case for grant of bail. In view of that, the appeal deserves to be allowed by imposing certain conditions on the present appellant. Accordingly, I proceed to pass following order.

(i) The appeal is allowed.

(ii) The order dated 07.05.2024 passed by the learned Judge (Special Court), Court No.2, Hinganghat in Special Case No.40/2023 rejecting the bail application is hereby quashed and set aside.

(iii) The appellant - Pandurang s/o Maroti Deotale shall be released on bail in connection with Crime No.941/2023 registered with police station Hinganghat, District Wardha for the offence punishable under Sections 143, 147, 148, 302 and 323 read with Section 149 of the Indian Penal Code, Section 135 of the Maharashtra Police Act and Sections 3(2)(v), 3(2)(va) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989, on executing P.R. bond in the sum of Rs.25,000/- with one solvent surety in the like amount.

(iv) The appellant shall not enter into the village Murpad, Taluka Hinganghat, District Wardha, till culmination of the trial.

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

(vi) The appellant shall attend the proceedings of the Court at Hinganghat without seeking any exemption unless there are exceptional circumstances.

10. The appeal is disposed of.

(URMILA JOSHI-PHALKE, J.)