



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

CRIMINAL APPEAL NO. 515 OF 2024

APPELLANT: Shri Shubham Damodar Gelikwar,
Age 24 years, Occ- Student,
R/o at Post Borda, Tq. Pombhurna,
District Chandrapur.

...V E R S U S...

RESPONDENTS 1] State of Maharashtra,
through Police Station Officer,
Pomburna Police Station,
District Chandrapur.

2] Sh. Moreshwar Kisan Kumbhare,
Age 51 Years, Occu- Agriculture,
R/o at post Borda (Dixit), Tq. Pombhurna,
District Chandrapur.

Mr. A.C. Khadse, counsel h/f Mr. S.P. Bhandarkar, counsel for
appellant.

Mr. Nitin Autkar, APP for Respondent/State.

Mr. Yash P. Bage, counsel (appointed) for respondent No.2.

CORAM : URMILA JOSHI-PHALKE, J.

DATE : 12/11/2024

ORAL JUDGMENT :

1. **Admit.** Heard finally with consent of learned counsel appearing for the parties.

2. This is an appeal under Section 14A of the Scheduled Caste and Scheduled Tribe (Prevention of Atrocities) Act, 1989 (hereinafter referred to as 'the Atrocities Act' for short). The appellant has challenged the order dated 17/08/2024 whereby the Additional Sessions Judge, Chandrapur, rejected the bail application of the appellant bearing Special Case No.81/2023.

3. The appellant is arrested on 05/04/2023 in connection with Crime No.40 of 2023 registered at police station Pomburna, Taluka Pomburna, District Chandrapur for the offences punishable under Sections 143, 147, 148, 302, 504 and 506 read with Section 149 of the Indian Penal Code and Sections 3(2)(va), 3(2)(v), 3(1)(r) of the Atrocities Act.

4. The allegation against the present appellant is on the basis of a report lodged by the Moreshwar Kisan Kumbhare, alleging that there was a previous dispute between his family members and the present appellant. On 04/04/2023, at about 8.00 p.m. to 8.30 p.m. he had been to the house of his sister-in-

law, and he was informed by his daughter that the appellant and the other co-accused came to their house and knocked on the doors of their house. He immediately rushed to the house and witnessed that they were abusing his father. His father has also sustained the injuries and was assaulted by the present appellant as well as the other co-accused, and subsequently his father succumbed to the death. On the basis of said report, police have registered the crime against the present appellant and other co-accused. The present appellant approached the Special Court for grant of bail, but the same was rejected, holding that there is sufficient material against the present appellant and the offence alleged is of a serious nature.

5. Being aggrieved and dissatisfied with the same, the present appeal is preferred by the appellant on the ground that even considering the recitals of the FIR and the investigation papers, it reveals that the only role assigned to the present appellant is assault by stick on the left hand. The postmortem report shows that the deceased has sustained swelling due to the said blow by the stick. As far as the death of the deceased is concerned, which is due to the head injury, and the head injury is attributed to the co-accused Damodhar. The other co-accused,

Keshav, to whom the similar role is attributed, is already released on bail by this Court. For all above this ground, it was prayed that the order passed by the Sessions Court deserves to be quashed and set aside.

6. Learned APP and the learned counsel for the complainant strongly opposed the appeal on the ground that the present appellant and the other co-accused, in furtherance of their common object, assaulted the deceased, and therefore, the deceased succumbed to the death. In view of that, the learned trial Court has rightly rejected the application, and no ground is made out for interference in the said order.

7. After hearing learned counsel for the parties and going through the investigation papers, it reveals that there was a previous enmity between the parties, and due to the previous enmity, the alleged incident has occurred on 04/04/2023. As far as the role of the present appellant is concerned, admittedly it is similar to the co-accused, who is already released on bail by this court. Moreover, the injury attributed to the present appellant is that he has assaulted by means of a stick on the left hand, and the death of the deceased is due to the head injury, and the said injury is attributable to the other co-accused Rahul. Considering all of

the above this ground, the appellant has made out the case for grant of bail. In view of that, I proceed to pass the following order.

- a] The appeal is allowed.
- b] The order passed by the Special Judge, Chandrapur in Special Case No.81/2023, below Exhibit 100 is hereby quashed and set aside.
- c] The appellant – Shubham Damodar Gelikwar, in connection with Crime No.40 of 2023 registered at police station Pomburna, Taluka Pomburna, District Chandrapur for the offences punishable under Sections 143, 147, 148, 302, 504, 506 read with Section 149 of the Indian Penal Code; and Sections 3(2)(va), 3(2)(v), 3(1)(r) of the Scheduled Caste and Scheduled Tribe (Prevention of Atrocities) Act, 1989, be released on bail on executing P.R. Bond in the sum of Rs.25,000/- with one surety in the like amount.
- d] The appellant shall attend the proceeding before the Special Court without seeking any exemption unless there are exceptional circumstances.
- e] The appellant shall attend the concerned police station

as and when required for the investigation purpose and shall cooperate with the investigating agency.

- f] The appellant shall not directly or indirectly make any inducement and threat or promise to any person acquainted with the facts of the present case.
- g] The fees of the appointed counsel be quantified as per Rule.

The appeal is **disposed of** accordingly.

JUDGE