



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

CRIMINAL APPEAL NO.604 OF 2024

Dilip s/o Ratiram Chirke
Age 33 years,
Occupation – Labour,
R/o Salesahari (Punarvasan),
Taluka Bhiwapur,
District Nagpur

...APPELLANT

VERSUS

1. State of Maharashtra,
through P.S.O. Bhiwapur,
Nagpur
2. Pradip Suryabhan Wankhede,
Age – 51 years,
Occupation – Private,
R/o. At - Salesahari (Punarvasan),
Taluka Bhiwapur,
District Nagpur

...RESPONDENTS

Mr. N.B. Rathod, Advocate for the appellant.
Mr. H.D. Dubey, A.P.P. for the State.
Mr. P.S. Dhenge, Advocate for respondent No.2.

CORAM : URMILA JOSHI-PHALKE, J.

DATED : DECEMBER 19, 2024.

ORAL JUDGMENT :

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

2. By preferring this appeal under Section 14-A of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 (hereinafter referred to as 'the Act of 1989'), the appellant has challenged the order dated 25/09/2024 passed by the learned Additional Sessions Judge-13 and Special Judge (S.C. and S.T.) Act, Nagpur in Special Case No.675/2023 by which the application of the present appellant for grant of bail was rejected.

3. The crime is registered on the basis of report lodged by the son of the deceased on an allegation that on 12/10/2023 his father left the house at about 12:00 PM by carrying his passbook and informing that he is proceeding towards the Bhiwapur bank. Thereafter he did not return back though he attempted to contact him but his efforts gone in vain and thereafter on the next day, the deceased was found dead in Neri Punarvasan, Mouza Gondbori Shivar. Immediately, he was taken to the hospital but he was declared dead. On the basis of the said report, police have registered the crime against the unknown person. During investigation, the involvement of the present appellant is revealed and the cash amount of Rs.28,000/- and one gold ring was recovered at the instance of the present appellant. On the basis of the said material it was alleged that the present appellant has committed the murder of the deceased and snatched the amount as well as gold ring. The statements

of the material witnesses are recorded and after completion of investigation, charge-sheet is filed.

4. Learned Counsel for the appellant submitted that entire case is based on the circumstantial evidence. Except the recovery of the said gold ring and the cash amount, there is absolutely no material to connect the present appellant with the alleged offence. He submitted that though the investigating agency has collected the SDR report but admittedly the appellant and the deceased are from the same village, and therefore, it cannot be an incriminating circumstance of having telephonic communication between the deceased and the present appellant on the day of incident. Now, investigation is completed, charge-sheet is filed, further incarceration of the appellant is not required. In view of that, the order passed by the Special Judge deserves to be quashed and set aside.

5. Learned APP and learned Counsel for respondent No.2 strongly opposed the appeal on the ground that on the memorandum statement, the gold ring of the deceased was seized at the instance of the present appellant and the cash amount of Rs.28,000/- is also recovered. During investigation, the Investigating Officer has collected the information that prior to the death, deceased has withdrawn the amount of Rs.20,000/- and Rs.8000/- cash he has carried along with him, and therefore, there is a recovery of Rs.28,000/- at the instance of the

present appellant which is sufficient to connect the present appellant with the alleged incident. The death of the deceased is due to the strangulation and the involvement of the present appellant revealed from the said circumstances. In view of that, the appeal deserves to be dismissed.

6. I have heard learned Counsel for both the parties. Perused the investigation papers from which it reveals that initially the crime was registered against the unknown person. During investigation, it revealed that the deceased has withdrawn the amount of Rs.20,000/- from the bank and he was also wearing a gold ring. The suspicion was raised against the present appellant and from the present appellant one gold ring and cash amount of Rs.28,000/- was recovered on the basis of the said memorandum statement. The subsequent statement of the informant shows that the deceased has carried Rs.8000/- cash from his house, and therefore, the recovery of the amount of Rs.28,000/- connects the present appellant with the alleged offence.

7. On perusal of the investigation papers it reveals that except the circumstance of recovery of the amount and recovery of the gold ring there is no other material to show that at any point of time, the deceased and the present appellant were seen together on the day of incident. The statements of various witnesses are recorded. There is SDR report collected by the Investigating Officer; however, considering the fact that

the deceased and the present appellant are from same village. The said telephonic communication is not an abnormal circumstance and is not sufficient to connect the present appellant with the alleged offence. Admittedly, the case is based on the circumstantial evidence and when case is based on the circumstantial evidence, one or two circumstances are not sufficient to connect the present appellant with the alleged offence. The chain of the circumstances is to be established by the prosecution. At this stage, considering the nature of the evidence collected during the investigation, the appellant has made out a case for grant of bail, and therefore, the order passed by the Special Judge deserves to be quashed and set aside. Accordingly, I proceed to pass following order:

- (i) The appeal is allowed.
- (ii) The order dated 25/09/2024 passed by the Additional Sessions Judge-13 and Special Judge (S.C. and S.T.) Act, Nagpur in Special Case No.675/2023, is hereby quashed and set aside.
- (iii) The appellant – Dilip s/o Ratiram Chirke in connection with Crime No.444/2023 registered with Police Station Bhiwapur, District Nagpur for the offences punishable under Sections 302 and 404 of the Indian Penal Code and Section 3(2)(v) of the Scheduled Castes and the

Scheduled Tribes (Prevention of Atrocities) Act, 1989, be released on bail 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 vicinity of village Salesahari (Punarvasan), Taluka Bhiwapur, District Nagpur till the culmination of the trial.

(v) The appellant shall not induce, threat or promise any witnesses who are acquainted with the facts of the case including victim either personally or by way of electronic media.

(vi) The appellant shall attend the proceedings before the Special Court regularly without seeking any exemption unless there are exceptional circumstances.

(vii) A single incident of tampering of the witnesses if reported and the contravention of any of the condition would lead to the cancellation of bail.

8. The appeal is disposed of.

(URMILA JOSHI-PHALKE, J.)