



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

CRIMINAL APPEAL NO. 782 OF 2023

APPELLANT: Syed Arbaz Syed Rubab,
Age 20, Occu: Labour,
R/o Khirni Bagicha,
Tah. Achalpur, District Akola.

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

RESPONDENTS 1] State of Maharashtra,
through Police Station Officer,
Paratwada Police Station, Tah. Achalpur,
District Amravati.

2] Vilas Ashok Akhande,
Age 26, R/o Garudi Mohalla Vidyaniketan
Colony, Paratwada Tah. Achalpur,
District Amravati.

Mr. P.R.Agrawal, counsel for appellant.
Mrs. H.N.Prabhu, APP for Respondent No.1.
Ms. C.S. Bhute, counsel (appointed) for respondent No.2.

CORAM : **URMILA JOSHI-PHALKE, J.**
DATE : **05/04/2024**

ORAL JUDGMENT :

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

2. By preferring this appeal, the appellant has
challenged the order passed by the Special Court in Criminal Bail

Application No. 496/2023 dated 18/10/2023, by which the application of the present appellant for grant of bail is rejected. The appellant is arrested on 25/07/2022, in connection with Crime No. 540/2022, registered with Police Station, Paratwada, Tah. Achalpur, District Amravati, for the offence punishable under Sections 307, 504, 506 read with Section 34 of the Indian Penal Code, 1860 and Section 3(2)(5a), 3(1)(r), 3(2)(5) of the Scheduled Caste and Scheduled Tribe (Prevention of Atrocities) Act, 1989 (for short 'the Act of 1989').

3. The accusation against the present appellant is on the basis of report lodged by the informant alleging that on 25/07/2022 at about 8.00 p.m. victim – Mangesh Akhande went to the house of informant – Vilas with bleeding injuries on his chest and thigh and with blood stains clothes and informed that when he had been to the house of one Chauhan for fetching the water, at that time, present appellant came there and assaulted him by means of knife. The appellant has given 3 to 4 blows of a stab on his chest and one stab injury on his left thigh. On the basis of said report, the police have registered the crime against the present appellant.

4. After registration of the crime, the appellant

approached the learned trial Court for grant of bail by filing the Criminal Bail Application No. 475/2022. The learned trial Court has rejected the application, considering the prima-facie case is made out against the present appellant, and the offence is of a grievous nature and the rejected the application. The earlier appeal filed by the appellant before this Court is withdrawn, as this Court has shown disinclination to grant bail.

5. Being aggrieved and dissatisfied with the same, the present appeal is preferred by the appellant on the ground that now the investigation is completed and the charge-sheet is filed, the appellant is behind bar since 25/07/2022, there is no progress in the trial. For a sufficient period, the appellant is behind bar and the appellant cannot be kept behind bar for an indefinite period.

6. It is further submitted by learned counsel for the appellant that the injured has sustained the injuries and the healing period given by the medical officer for stab injury is 10 to 15 days and other stab injuries for 15 to 20 days. Now, he has survived and now there is no apprehension of death. The investigation is completed and charge-sheet is also filed. In view of that, he be released on bail.

7. Learned Additional Public Prosecutor for the

Respondent/State strongly opposed the said appeal on the ground that considering the 3 to 4 stabs are inflicted by the present appellant and the grievous injuries are sustained by the injured, the appeal deserves to be rejected. She further submitted that considering the gravity of the offence, this Court has initially shown the disinclination to grant bail. Now, there are no change in circumstances, in view of that appeal deserves to be dismissed.

8. Learned counsel for the informant also endorsed the same contention and prays for rejection of the appeal.

9. Having heard learned counsel for the appellant, learned Additional Public Prosecutor for the respondent/state, and learned counsel for the informant, perused the investigation papers. As far as the recitals of the FIR are concerned, admittedly the specific role is attributed to the present appellant that he has given 3 to 4 stabs on the chest and one stab on the left thigh of the injured. The injured was immediately shifted to the hospital. The medical treatment papers also shows that the injury sustained by the injured was grievous in nature but the healing period given by the medical officer is 10 to 15 days for the said injuries. Now, admittedly the injured is discharged from the hospital and survived from the injury sustained by him. The investigation is also

completed and charge-sheet is also filed. The appellant is behind bar since the date of his arrest i.e. from 25/07/2022. Now, the only apprehension is that if the appellant is released on bail, he would tamper with the prosecution evidence, that aspect can be taken into consideration by imposing certain conditions on the appellant.

10. Considering that one and half years the appellant is behind bar and there is no such progress in the trial to dispose of the trial. Admittedly, the appellant cannot be put behind bar for the indefinite period. The trial will take its own time for its final disposal. In the meantime, if the appellant is kept behind the bar, definitely it would cause prejudice to him, if he make out the case under a lessor offence, as submitted by the learned counsel for the appellant. Considering the fact that, though the offence is of a grievous nature, now that, investigation is completed and there is no progress in the trial, the appeal deserves to be allowed by imposing certain conditions. In view of that the order passed by the learned Special Court rejecting the bail application requires to be quashed and set aside. In view of that, I proceed to pass the following order:

ORDER

- a) The criminal appeal is **allowed**.
- b) The order passed by the learned Special Court dated 18/10/2023 is hereby quashed and set aside.
- c) The appellant – **Syed Arbaz Syed Rubab** shall be released on bail, in connection with Crime No. 540/2022, registered with the police station, Paratwada, Tah. Achalpur, District - Amravati, for the offences punishable under Sections 307, 504, 506 read with Section 34 of the Indian Penal Code, 1860 and Section 3(2)(5a), 3(1)(r), 3(2)(5) of the Scheduled Caste and Scheduled Tribe (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.
- d) The appellant shall not enter into the vicinity of the Paratwada, Tah. Achalpur District Amravati, till the culmination of trial.
- e) The appellant shall not induce, threat or promise to any witnesses, who are acquainted with the facts of the present case.
- f) The appellant shall attend the proceedings before the

Special Court without seeking any exemption unless there are exceptional circumstances.

The Criminal Appeal is **disposed of** accordingly.

[URMILA JOSHI-PHALKE, J.]

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