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

CRIMINAL APPEAL NO.360 OF 2024

Rakesh s/o Suresh Dongarwar,
Age : 25 Years, Occupation : Labour,
R/o. Dhabetekadi/Zarpada,
Post – Zarpada, Tahsil : Arjuni/Mor,
District : Gondia 441702.

..... APPELLANT

// VERSUS //

1. State of Maharashtra,
Through The P.S.O./I.O.
Police Station, Arjuni/Mor,
District – Gondia.

2. Keshav s/o Kashinath Ramteke,
Aged About : 45 Years,
Occupation – Private,
R/o. Dhabetekadi, Post – Zarpada,
Tahsil- Arjuni/Mor, District – Gondia.

... RESPONDENTS

Mr. P. M. Sinha, Counsel with Mr. M. B. Kamble Counsel
for the appellant.
Mr. N. B. Jawade, APP for respondent No.1/State.
Mr. Amol G. Hunge, appointed Advocate for respondent
No.2.

CORAM : URMILA JOSHI-PHALKE, J.
DATED : 13.08.2024

ORAL JUDGMENT :

1. Heard.
2. **Admit.**

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3. The present appeal is preferred under Section 14-A of the Scheduled Caste and Scheduled Tribes (Prevention of Atrocities) Act by the appellant against the order dated 29.01.2024 passed by the learned Special Judge Gondia by which the application of the present appellant for grant of bail is rejected.

4. The appellant is arrested on 16.05.2023 in connection with Crime No.86/2023 registered with Police Station Arjuni/Mor for the offences punishable under Sections 307, 450, 504, 506 of the Indian Penal Code and under Sections 3(2)(v)(va), 3(1)(r)(s) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 (hereinafter referred to as 'the Act of 1989').

5. The accusation against the present appellant is on the basis of the report lodged by the informant Keshav Kashinath Ramteke alleging that on 10.05.2023 at about 12.30 a.m. in the midnight, he heard the shouting of his sister-in-law injured Vivekabai Ramteke. Hence, he rushed towards her house and saw that she is lying on the road in a bleeding condition, neighbours also gathered there. On inquiry with her, she informed that on 09.05.2023 at about

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10.00 a.m. as the accused had cut the fence bushes there was a quarrel between them and on that count, the appellant entered her house at 12.00 midnight and when she opened the door after hearing the knock on the door, he gave blow of knife on her person due to which she sustained two stab injuries and the injuries in the nature of lacerations. On the basis of the said report, police have registered the crime. During the investigation the statement of the injured was also recorded.

6. After arrest of the accused, the appellant preferred bail application before the learned Special Court which was rejected. Subsequent to that, he again filed an application for grant of bail vide Exhibit 8 which is also rejected and hence this appeal.

7. Heard learned Counsel for the appellant who submitted that since the date of the arrest, the appellant is behind bars. Now, the investigation is already completed and charge-sheet is filed. Though the appellant is behind bars since 16.05.2023 there is no commencement of the trial. Now, the injured is also discharged from the hospital and there is no apprehension of death. As far as further

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incarceration is concerned, which is not required, in view of that he be released on bail by setting aside the order passed by the learned Special Judge. He further submitted that as far as the order of the learned Special Judge is concerned, learned Special Court has not considered that the investigation is completed, charge-sheet is filed and further incarceration of the appellant is not required.

8. Learned APP for the State and learned appointed Counsel for the respondent No.2 strongly opposed the said appeal on the ground that the circumstances and the manner in which the injured was assaulted is to be taken into consideration, she sustained two grievous injuries in the nature of stab wounds and she has also sustained other six injuries which are in the nature of the laceration. It is further submitted that on behalf of the State as well as the original complainant that if the appellant is released on bail, there is every likelihood of the occurrence of a similar type of the incident. In view of that, the order passed by the learned Special Judge deserves to be maintained.

9. After hearing the learned Counsel for the appellant and learned APP for the State and learned appointed Counsel for

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the respondent No.2, perused the recitals of the FIR. There is no dispute as to the fact that on the night of incident i.e. on 10.05.2023 at about 12.30 midnight the present appellant had been to the house of the injured, as there was a previous quarrel between the injured and the appellant on 09.05.2023 on account of cutting off the bushes of the fencing. The allegation made by the injured is substantiated by the injury certificate as total eight injuries are found on the person of the injured. Out of them, two injuries are in the nature of stab wounds which are grievous in nature. The injury which is in the nature of the laceration which noted by the Medical Officer as a grievous. The statement of the injured is also recorded wherein also she alleged that present appellant on account of previous quarrel on the earlier day assaulted her by means of knife. As far as the intention of the present appellant is concerned, which is apparent from the statement of the injured as well as from the medical certificate. Now injured is already discharged from the hospital and at this moment, there is no apprehension of death to the injured as no further treatment is given to the injured. At least, nothing is on record to show that subsequent to her treatment, she was

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again treated for the said injuries. Now, the investigation is already completed, charge-sheet is filed and the appellant is behind bars since last one year, there is no progress in the trial. Considering all these aspects, the appellant has made out a case for grant of bail, in view of that appeal deserves to be allowed by imposing certain conditions. In view of that I proceed to pass following order.

ORDER

(i) The appeal is allowed.

(ii) The order dated 29.01.2024 passed by the learned Special Judge, Gondia rejecting the bail application vide order below Exhibit 8 in Special Case No.98/2023, is hereby quashed and set aside.

(iii) The appellant **Rakesh s/o Suresh Dongarwar** shall be released on bail on executing PR in the sum of Rs.25,000/- with one solvent surety in the like amount, registered with Police Station Arjuni/Mor, District Gondia for the offences punishable under Sections 307, 450, 504, 506 of the Indian Penal Code and under Sections 3(2)(v)(va), 3(1)(r)(s) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989.

(iv) The appellant shall not enter into the vicinity of village Dhabetekadi, Post – Zarpada, Taluka Arjuni/Mor, District Gondia, till culmination of the trial.

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

10. The appeal is disposed of.

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

(URMIL A JOSHI-PHALKE, J.)

Sarkate.