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

CRIMINAL APPEAL NO.172 OF 2025

Pravin s/o Sunil Mutkure,
Aged about : 22, Occupation: Labour,
R/o Infront of Railway Station,
Gondia, Railtoli Gondia.

..... APPELLANT

// VERSUS //

1. State of Maharashtra,
through Police Station Officer,
Police Station, Ramnagar,
District Gondia.

2. Rahul Raju Dahat,
Aged about 26 Years,
Occupation : Labour,
Ro. Dindayalward, Ramnagar,
Gondia - 441601.

.... RESPONDENTS

Mr. D. N. Mehta, Counsel for the appellant.
Ms. S. S. Dhote, APP for the respondent No.1 /State.
Ms. V. A. Warade, appointed Counsel for the respondent
No.2.

CORAM : URMILA JOSHI-PHALKE, J.
DATED : 29.04.2025

ORAL JUDGMENT :

1. Heard.

2. **Admit.**

3. By challenging the order dated 29.01.2025 passed by
the learned Special Judge, Gondia in Special Case No.64/2024

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below Exh.8, rejecting the application of the present appellant for grant of bail. The present appeal preferred by the appellant.

4. The appellant is arraigned as an accused in connection with Crime No.354/2023 which is registered on the basis of report lodged by Rahul Raju Dahat on an allegation that he along with his friend Arpit were proceeding on his motorcycle on 12.11.2023 at about 9.30 p.m. and they reached Pal Chowk to Gurudwara Road on 11.05 p.m., at that time three persons came on motorcycle, who gave a cut to their vehicle, and therefore, Arpit got annoyed and shouted on them. At the relevant time, the co-accused Ankaj has picked up the piece of the tile and thrown, which hit the leg of the informant. Thereafter, the present appellant assaulted him by means of fist and kick blows and when Ankaj and the present appellant assaulted him, at that time present appellant and the other co-accused Ankaj hold Arpit and the other co-accused Waghmare has given a blow of knife on the neck and abdomen of the said Arpit, due to which, Arpit sustained the grievous injuries and subsequently succumbed to the death. On the basis of the said report, police have registered the crime against the present appellant.

5. Heard learned Counsel for the appellant, who submitted that as far as the role of the present appellant is concerned, which is only to the extent of assault by fist and kick blows and holding

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the deceased. As far as the knowledge of the appellant that the other co-accused is having a knife along with him, nowhere disclosed from the statement of the witnesses. Considering the role of the present appellant, he has not caused the death of the deceased. Now the investigation is already completed, charge-sheet is filed and further incarceration of the present appellant is not required. Moreover, there is not statement that the present appellant was knowing that the deceased belongs to the Scheduled Caste or Scheduled Tribe, and therefore, the provisions of the Atrocities Act are not applicable against the present appellant.

6. Learned APP strongly opposed the said appeal and submitted that as the present appellant has hold the deceased, and therefore, the other co-accused could execute the act of giving the blow on his neck and the abdomen, and therefore, the role of the present appellant is vital a role, and therefore, the appeal deserves to be dismissed. The similar contention is raised by the learned appointed Counsel for the respondent No.2.

7. After hearing both sides and on perusal of the investigation papers, admittedly, the role attributed to the present appellant is only to the extent of assault by fist and kick blows and holding the deceased. Whether the present appellant was having knowledge that the other co-accused was carrying the knife along

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with him is a matter of evidence. At this stage, the entire statements of the witnesses disclose that the only role attributed to the present appellant is to the extent of assault by fist and kick blows. Now the investigation is already completed, charge-sheet is filed and further incarceration of the present appellant is not required. In view of that the appellant has made out a case for grant of bail. Accordingly, I proceed to pass following order:

ORDER

- (i) The appeal is allowed.
- (ii) The order passed by the learned Special Judge dated 29.01.2025 below Exh.8 in Special Case No.64/2024, rejecting the bail application of the present appellant is hereby quashed and set aside.
- (iii) The appellant **Pravin s/o Sunil Mutkure** shall be released on bail in connection with Crime No.354/2023 registered with Ramnagar Police Station, District Gondia for the offence punishable under Sections 324, 323 and 302 read with Section 34 of the Indian Penal Code and under Sections 3(2)(v) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act on executing PR 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 Ramnagar, Gondia, till the culmination of trial.
- (v) The appellant shall attend the proceeding before the Special Court without seeking any exemption unless there are exceptional circumstances.
- (vi) The appellant shall not induce, threat or promise any witnesses who are acquainted with the facts of the case.

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

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The appeal is disposed of.

(URMILA JOSHI-PHALKE, J.)

Sarkate.