



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

CRIMINAL APPEAL NO.733 OF 2024

Sachin s/o Mukund Balkhande
Aged About 26 Years,
Occ: Labourer
R/o Sant Kabir Nagar,
Akot Fail, Akola, District Akola

...APPELLANT

VERSUS

1. State Of Maharashtra,
through Police Station Officer,
Police Station Khadan,
District Akola.
2. Pradip Prabhakar Gopnarayan
Aged about 46 years,
Occupation – Labourer
R/o. Near Budhha Vihar,
Ward No.14, Malkapur,
Akola, District Akola

...RESPONDENTS

Mr. B.K. Suchak, Advocate h/f Mr. K. Anandani, Advocate for the appellant.
Ms S.S. Dhote, APP for the State.
Ms R.K. Swami, Advocate (appointed) for respondent No.2.

CORAM : URMILA JOSHI-PHALKE, J.

DATED : FEBRUARY 25, 2025.

ORAL JUDGMENT :

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

2. By preferring this appeal, the appellant has challenged the order passed by the Special Court and Additional Sessions Judge, Akola dated 08.11.2024 by which the application of the present appellant below Exhibit 129 for grant of bail is rejected.

3. The accusation against the present appellant on the basis of report lodged by Pradip Prabhakar Gopnarayan wherein it is alleged that on 03.12.2023 at about 8.30 PM one Amit Gawali, Sahil Malokar, Sujit Gawalil and others were celebrating birthday of Rushabh Kale. Everyone was celebrating the birthday by keeping the cake on bike, at that time, 10-15 bikes came there and some of them were burning crackers as well. Due to some reason, there was a rift between the informant, the other prosecution witnesses and the co-accused. In the said incident, the informant and other prosecution witnesses are assaulted and the informant was also abused by them on his caste. In the said incident, one Sujit has assaulted Amit Gopnarayan by means of knife on his chest. Due to the same, the informant and other five prosecution witnesses have sustained the injuries. On the basis of the said report, police have registered the crime against the present appellant and other co-accused.

4. After registration of the crime, the appellant was arrested and he filed a bail application which came to be rejected on the ground that there are criminal antecedents against the present appellant.

5. Learned Counsel for the appellant submitted that now investigation is completed and charge-sheet is filed. As far as the role of the present appellant is concerned his name is not mentioned in the FIR. The general allegation is levelled against him. Considering the same, his further incarceration is not required. Now, the investigation is completed and charge-sheet is filed. In view of that, he be released on bail.

6. Learned APP and learned Counsel for respondent No.2 strongly opposed the said appeal on the ground that the presence of the appellant revealed from the statement of the witnesses and the allegation is levelled against him that he was involved in the assault. It is further submitted that there are as many as 11 offences are registered against him. Thus, considering criminal antecedents against him, if he is released on bail he would involve in similar type of the offences.

7. I have heard learned Counsel for both the parties. Perused the investigation papers from which it reveals that general allegation is levelled against the present appellant as far as the assault is concerned. Mere criminal antecedents is not sufficient to reject the bail application of the appellant. The preventive action taken by the authorities against the present appellant is also set aside by the Division Bench of this Court in *Criminal Writ Petition No.406/2024 (Sachin Mukund Balkhande Vs. State of Maharashtra and anr.)* decided on 11.02.2025. Considering all

these aspects, the appeal deserves to be allowed. Accordingly, I proceed to pass following order:

- (i) The appeal is allowed.
- (ii) The order dated 08.11.2024 passed by the Special Court and Additional Sessions Judge, Akola in Special Atrocity Case No.29/2024 below Exhibit 129, is hereby quashed and set aside.
- (iii) The appellant - Sachin s/o Mukund Balkhande shall be released on bail on executing P.R. bond in the sum of Rs.25,000/- with one solvent surety in the like amount, in connection with Crime No.662/2023 registered with Police Station Khadan, Akola, District Akola for the offences punishable under Sections 143, 147, 148, 307, 201, 326, 323, 324, 504, 506 read with Section 149 of the Indian Penal Code and under Section 3(1)(r)(s), 3(2)(v), 3(2)(v-a) of Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act and Sections 4 and 25 of the Arms Act.
- (iv) The appellant shall not induce, threat or promise any witnesses who are acquainted with the facts of the case.

(v) The appellant shall not indulge in similar type of the activities.

(vi) The contravention of any of the terms and conditions will lead the cancellation of the bail of the present appellant.

8. The appeal stands disposed of.

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

(URMILA JOSHI-PHALKE, J.)

**Divya*