

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

Criminal Appeal No.368/2021

(Pawan Meshram V State of Maharashtra and another)

Office notes, Office Memoranda of
Coram, appearances, Court's orders
or directions and Registrar's orders.

Court's or Judge's Orders

Mr. H.G. Katekar, Advocate for appellant.
Mr. Doifode, APP for State.

CORAM : M.S. SONAK & PUSHPA V. GANEDIWALA, JJ.
DATE : 26-10-2021.

Heard Mr. Katekar, learned Counsel for the appellant and
Mr. Doifode, learned APP for the State.

2. This is an appeal under Section 14-A of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989, challenging the order dated 18-06-2021, by which the appellant was declined regular bail by the learned Special Court.

3. Mr. Katekar, learned Counsel points out that from out of 15 accused persons, the accused no.4 was enlarged on bail by this Court vide its judgment and order dated 28-07-2021 in Criminal Appeal No.244/2021. Mr. Katekar, learned Counsel further submits that there is no significant difference between the role ascribed to the appellant herein and the appellant in Criminal Appeal No.244/2021. He submits that even otherwise there has been no consideration of the appellant's case on merits and therefore, his appeal ought to be allowed.

4. Mr. Doifode, learned APP points out that if the appellant seeks bail on the ground of alleged parity, then, the appellant, ought to be relegated to the learned Special Court for consideration of this aspect. He points out the impugned order in this case dated 18-06-2021 and the order of this Court on which the appellant relies was made on 28-07-2021.

5. Having considered the rival contentions and perused the record, we agree with Mr. Doifode, learned APP that if the appellant seeks bail on the ground of parity, then, it will be appropriate that the appellant, at the first instance, applies for bail before the learned Special Court.

6. Therefore, rather than entertain this appeal and address the issue of parity, we grant liberty to the appellant to file application for bail before the learned Special Court, inter alia on the ground of change in circumstances. This change arises on account of one of the co-accused being enlarged on bail by this Court and the contention of the learned Counsel for the appellant that there is no difference in the role ascribed to the present appellant and the appellant in Criminal Appeal No.244/2021. This contention of the appellant has to be examined by the learned Special Court and according to us, the learned Special Court at least in the first instance, will be better poised to go into this aspect and examine this contention.

7. Accordingly, we dispose of this appeal by granting the appellant liberty in the aforesaid terms.

8. At the request of learned Counsel for the appellant, we direct the learned Special Court that the bail application of the appellant be disposed of as expeditiously as possible and in any case within the period of four weeks from the date on which the copy of the said application is served upon the learned Public Prosecutor appearing before the learned Special Court.

9. All contentions of all parties are, however, left open for determination by the learned Special Court.

10. The appeal is disposed of in the aforesaid terms. No order as to costs.

(Pushpa V. Ganediwala, J.)

(M.S. Sonak, J.)