

**IN THE HIGH COURT OF JUDICATURE OF BOMBAY  
BENCH AT AURANGABAD**

**CRIMINAL APPEAL NO. 82 OF 2022**

Datta s/o Marotrao Raner,  
age: 25 years, Occ: Labour,  
R/o Balsa, Tq. & Dist. Parbhani.

Appellant

Versus

01 The State of Maharashtra,  
through Nanal Peth Police Station,  
Parbhani.

02 Kumari Sakshi Vitthal Sadawarte,  
age: 14 years, minor, under  
guardianship of Gangasagar w/o  
Sopan Dhutraj, R/o Sagar Colony,  
Wangi Road, Parbhani.

Respondents

Mr. U. B. Bilolikar, advocate holding for Mr. Syed Parvez Syed Gani,  
advocate for the appellant.

Mr. S. S. Dande, APP for Respondent No.1.

Ms. Anuradha S. Mantri, advocate for Respondent No.2 (appointed  
through High Court Legal Services Sub Committee, Aurangabad).

**CORAM : V.K.JADHAV AND  
SANDIPKUMAR C. MORE, JJ.**

**DATE : 06<sup>th</sup> April, 2022.**

**ORDER (Per Sandipkumar C. More, J.):**

1 This is an appeal preferred by the appellant-accused in  
terms of provisions of Section 14A (2) of the Scheduled Castes and  
the Scheduled Tribes (Prevention of Atrocities) Act, 1989 (herein

after referred to as “the Act”), for seeking his release on regular bail in connection with Crime No.607 of 2020, registered with Nanal Peth Police Station, Parbhani, for the offences punishable under Sections 302, 201, 120-B, 143, 147, 148, 149 of the Indian Penal Code read with Section 3 (2) (v) of the Act.

2           The application, with similar prayer, was filed by the present appellant before the learned Special Judge-5, Parbhani, below Exhibit-45 in Special (Atrocities) Case No. 01 of 2021. but it was rejected by the learned Judge vide order dated 13.01.2022.

3           Learned Counsel for the appellant-accused submits that the appellant is in jail since 10.10.2020 in connection with the aforesaid crime, however, investigation is now over and charge sheet has also been submitted before the concerned Court. He further submits that there is no direct evidence in the instant matter about involvement of the present appellant and the prosecution case is entirely based upon circumstantial evidence. According to the learned Counsel for the appellant, the main allegations are against co-accused Santosh i.e. a Police Constable, who had, in fact, hatched the conspiracy with the other accused, including the present appellant, for seeking their assistance in

committing murder of one Ramabai. Learned Counsel for the appellant further submits that the prosecution has shown involvement of present appellant only on the basis of memorandum panchanama under Section 27 of the Evidence Act, even though the disclosure statement at the time of memorandum of panchanama is not admissible in evidence. He further submits that even though it is assumed for the sake of arguments that the appellant was present at the time of incident, but no specific role has been attributed to him in respect of taking active part in the incident. On the contrary, nothing has come on record against the present appellant-accused in the so called extra-judicial confession by co-accused Dnyaneshwar @ Manoj Harkal. According to the learned Counsel for the appellant, there are no antecedents and considering the material on record, the appellant-accused may be released on bail.

4           On the contrary, learned Counsel for Respondent No.2 has strongly opposed the appeal by making submissions that the main accused Santosh i.e. a Police Constable had illicit relations with deceased Ramabai and he had also purchased one Insurance Policy worth Rs. 20 lakhs in the name of deceased Ramabai showing himself as nominee, despite she had two children.

Thereafter, co-accused Santosh, in order to get the policy amount, hatched criminal conspiracy with other accused, including the present appellant and created a scene of accidental death of Ramabai. Learned Counsel for Respondent No.2 further submits that deceased Ramabai was first injected with diazepam and then she was thrown on the road. Accused then also tried to crush her under the auto rickshaw and ultimately, co-accused Santosh gave a blows of stone on her head. Thus, learned Counsel for Respondent No.2 submits that since deceased Ramabai was brutally murdered by all the accused, present appeal deserves to be dismissed.

5           On the other hand, learned A. P. P. also submits that the witnesses, who had an occasion to hear the extra-judicial confession of co-accused Dnyaneshwar @ Manoj, have specifically stated as to how all the accused persons, including the present appellant, committed brutal murder of Ramabai. Moreover, co-accused Santosh, who is the main accused in the instant matter, has stated in the disclosure statement under Section 27 of the Evidence Act, as to how he, along with other accused persons and present appellant, committed murder of Ramabai. As such, learned A. P. P. prayed that the appellant should not be released on

bail.

6           On careful perusal of the charge sheet and other documents on record, it reveals that there is no direct evidence against the accused persons but case of the prosecution is entirely based upon circumstantial evidence. The prosecution is claiming that co-accused Santosh had illicit relations with deceased Ramabai and he had even purchased one Insurance policy worth Rs. 20 lakhs in the name of Ramabai showing himself as a nominee despite Ramabai was having two children. Thus, the prosecution is claiming that to get the policy amount, all the accused, including present appellant, have committed brutal murder of Ramabai and then tried to create a scene as if she died in road accident.

7           Though the prosecution claims involvement of present appellant in the instant crime, however, on perusal of the charge sheet, it appears that involvement of the other co-accused and present appellant was disclosed by way of alleged extra-judicial confession by co-accused Dnyaneshwar @ Manoj Harkal, who is accused no.2 in the instant crime. The witnesses, namely Govind Bharat Maske and Ratneshwar Rohidas Kendalkar have stated

that said Dnyaneshwar @ Manoj Harkal had, in fact, told them as to how he, along with other accused and the present appellant, committed murder of Ramabai. However, on going through the said extra-judicial confession, it is evident that name of the present appellant is not mentioned therein. On the contrary, it has only been stated by Dnyaneshwar @ Manoj that he, along with Santosh and co-accused Vishal Khetre and one unknown person and one unknown lady, committed murder of one another lady. However, even in the said statement, no specific role of the present appellant is mentioned by co-accused Dnyaneshwar @ Manoj. Moreover, these two witnesses, namely Govind Bharat Maske and Ratneshwar Rohidas Kendalkar have no personal information about the crime and their statements have been recorded only on the basis of confession heard by them from co-accused Dnyaneshwar @ Manoj. Besides, there is statement of co-accused Santosh on record wherein he made a disclosure as to how the crime was committed. However, such disclosure statement is itself not admissible in evidence.

8           The learned A. P. P. and learned Counsel for Respondent No.2 drew our attention to the transcription of cctv footage and submitted that the appellant is seen in the said cctv

footage of the cctv cameras installed in the Government Hospital, Parbhani, while bringing the deceased to the hospital. However, on going through the said transcription, a reference has only come that one person, wearing blue shirt, was seen getting down from one auto rickshaw. However, at such a preliminary stage, it cannot be determined that the said person was in fact present appellant. Even if it is presumed that it was the present appellant, who had brought the deceased in auto rickshaw to the Government Hospital, Parbhani, but except the said fact, there is no direct evidence against the present appellant about his active involvement in the crime. Even in the alleged extra-judicial confession of accused no.2 Dnyaneshwar @ Manoj, no specific role is ascribed to the present appellant. Even the name of the present appellant is not mentioned there.

9           Taking into consideration all these facts mentioned above and the nature of evidence against the present appellant, we are inclined to release him on bail since he is languishing in the jail, in connection with instant crime, since 10.10.2020. Moreover, there are no antecedents against the appellant and, therefore, we proceed to pass the following order:

- (i) The Criminal Appeal is hereby allowed.
- (ii) The appellant-accused Datta Marotrao Raner, in connection with Crime No. 607 of 2020 (Special (Atrocity) Case No. 01/2021), for the offences punishable under Sections 302, 201, 120-B, 143, 147, 148, 149 of the Indian Penal Code and under Section 3(2)(v) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989, be released on bail on furnishing Personal Bond of Rs. 25,000/- (Rs. Twenty Five thousand) with one solvent surety in the like amount.
- (iii) The Criminal Appeal is accordingly disposed of.
- (iv) We quantify the fees for the appointed Counsel for Respondent No.2 - Ms. Anuradha S. Mantri at Rs.2000/- (Rs. Two thousand) to be paid by the High Court Legal Services Sub Committee, Aurangabad.

**(SANDIPKUMAR C. MORE)**  
**JUDGE**

**(V.K.JADHAV)**  
**JUDGE**

adb