

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

**CRIMINAL APPEAL NO. 742 OF 2022**

Mukunda Bhaurao Patil

..APPELLANT

VERSUS

State of Maharashtra and Another

..RESPONDENTS

....

Mr. B.R. Waramaa, Advocate for appellant

Mr. R.B. Bagul, A.P.P. for respondent no.1 – State

Ms. Ashwini Lomte, Advocate for respondent no.2 (appointed)

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**CORAM : R.G. AVACHAT,**

**R.M. JOSHI, JJ.**

**DATE : 08<sup>th</sup> DECEMBER, 2022**

**PER COURT :**

1. This is an appeal under Section 14-A(2) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 ('the Act'). The challenge in this appeal is to an order dated 22<sup>nd</sup> September, 2022 passed by the learned Additional Sessions Judge, Amalner in Criminal Bail Application No. 332 of 2022 thereby refusing to grant the appellant anticipatory bail in connection with Crime No. 305 of 2022 registered with Parola Police Station, Dist. Jalgaon for the offences punishable under Sections 302, 326, 323, 324, 325, 504 and 506 of the Indian Penal Code ('I.P.C.') and under Section 3(1)(r), 3(1)(s) and 3(2)(va) of the Act.

2. Heard. Perused the First Information Report ('F.I.R.') and related papers.

3. The F.I.R. has been lodged by a widow of the deceased – Kamal on 26<sup>th</sup> August, 2022 in relation to the incident that took place on 17<sup>th</sup> May, 2022 and 3-4 days thereafter. It is the case of informant that she hails from State of Madhya Pradesh. She, alongwith her husband – Kamal (deceased), had come to village Karadi, Tq. Parola, Dist. Jalgaon in search of work. One Bablu Patil of Parola engaged her husband (deceased) for work. The appellant has his agricultural field adjoining the field of Bablu Patil. On 17<sup>th</sup> May, 2022, deceased – Kamal was at his residence. The appellant and three others (unknown) were quarreling amongst themselves. The deceased, therefore, asked the appellant not to quarrel and use abusive words since he was residing with his family members there. The appellant got annoyed thereby. He gave a kick on the stomach of the deceased. Again after 3-4 days i.e. on 20<sup>th</sup> May, 2022, the appellant taking threads of the incident dated 17<sup>th</sup> May, 2022, beat up the deceased mercilessly. The applicant tied the deceased to a bullock-cart. The deceased and the informant went back to their village for some reason. The deceased experienced pain in his abdomen. He omitted blood. He was, therefore, admitted to hospital on 07<sup>th</sup> June, 2022. He was shifted to Civil Hospital, Nandurbar, but succumbed on 08<sup>th</sup> June.

4. The postmortem report indicates the deceased died of shock due to blunt abdominal trauma (unnatural). The cause of death is sought to be connected with the assault made by the appellant on 20<sup>th</sup> May, 2022. On investigation, the charge-sheet has been filed. While the deceased was admitted to the hospital, the history of injury given was, 'fall'. Moreover, there is delay of little over three months in lodging the F.I.R. after the incident and of two and half months after the death of the deceased. It is informed that the eye witnesses do not support case of the informant. The appellant was protected with grant of ad-interim relief. In short, the order granting ad-interim relief deserves to be confirmed for the reasons viz. :- (i) delay of little over three months in lodging the F.I.R. from the date of incident; (ii) the eye witnesses not supporting the case of the informant; (iii) medical papers record history of injury as, 'fall'; (iv) on investigation, the charge-sheet has been filed; and (v) it will take time for commencement and conclusion of trial.

5. In view of above, the following order :-

### **ORDER**

(I) Impugned order dated 22<sup>nd</sup> September, 2022 passed by the learned Additional Sessions Judge, Amalner in Criminal Bail Application No. 332 of 2022 thereby refusing to grant the appellant anticipatory bail, is hereby set aside.

(II) Order dated 20<sup>th</sup> October, 2022, granting ad-interim relief to the appellant, is hereby made absolute on the same terms and conditions.

(III) Fees of Ms. Ashwini Lomte, learned counsel, appointed to represent Respondent No.2, is quantified to Rs.6,000/- (Rupees Six Thousand)

(IV) Criminal appeal stands disposed of accordingly.

( R.M. JOSHI, J. )

( R.G. AVACHAT, J. )

SSD