

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

CRIMINAL APPEAL NO. 743 OF 2022

Gajanan Bhagwan Mogal

.. Appellant

Versus

The State of Maharashtra and another

.. Respondents

Mr. Mahesh P. Kale, Advocate for the Appellant.

Mr. Y. G. Gujarathi, APP for Respondent No. 1.

Smt. Sudha Chintamani, Advocate for Respondent No. 2 (Appointed through Legal Aid).

CORAM : KISHORE C. SANT, J.

DATED : 19th OCTOBER, 2022.

P. C. :-

1. Leave to amend prayer clause (B) to correct the date of the order passed by the learned Trial Court.
2. Heard learned advocate for the appellant.
3. This is an appeal challenging the order passed by the learned Special Judge and Additional Sessions Judge, Parbhani thereby rejecting the bail application of the appellant.
4. Learned advocate for the appellant submits that the FIR is lodged on 27.08.2022 in respect of the alleged incident dated 19.06.2022. Thus, there is delay of two months and seven days. He further submits

that the appellant is arrested on 20.09.2022 and since then he is behind bars. Considering the delay and the contents of the FIR, the appellant deserves to be released on bail.

5. From the FIR, it does appear that the appellant has abused and insulted the informant in the name of caste. However, considering the delay, the learned advocate submits that he is behind bars since long period. He submits that no purpose would be served by keeping the appellant behind bars and prays for release the appellant on bail.

6. Learned APP has produced the papers of investigation. From the papers it does appear that there are contradictory statements made by the witnesses giving rise to doubt the veracity of the contents of the complaint.

7. Learned advocate appointed for respondent No. 2 submits that looking at the FIR as it is, it is seen that the offence is clearly made out and prays for rejection of bail.

8. After considering the papers produced by the learned APP and considering the fact that there is delay of more than two months in lodging the FIR and also contradictory statements recorded by the Police which certainly creates doubt of the genuineness of the complaint and the appellant is only 29 years of age, I pass the following order.

9. The order passed by the learned lower Court dated 26.09.2022 by the learned Special Judge and Additional Sessions Judge, Parbhani in Criminal Bail Application No. 888/2022 is hereby quashed and set aside.

10. The appellant be released on bail on furnishing bail and bond in the sum of Rs. 15,000/- (Rs. Fifteen Thousand only) with one solvent surety in the like amount. The appellant shall not try to contact any of the witnesses and shall not create any obstructions in the investigation. The appellant to report Police Station whenever called by the investigating officer and to co-operate in the investigation.

11. The Criminal Appeal is disposed of.

12. Learned advocate for respondent No. 2 who is appointed be paid through legal aid.

(KISHORE C. SANT, J.)

PS.B.