

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

978 CRIMINAL APPEAL NO.596 OF 2021

1. ANKUSH S/O INDRAJEET BUKAN
2. POPAT S/O CHAGGAN WAKURE AND
3. SAMADHAN S/O HARIBHAU WAKURE
VERSUS

THE STATE OF MAHARASHTRA AND ANOTHER

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Advocate for Appellants : Mr. Salunke Sudarshan J

APP for Respondents : Mrs. D S Jape

Advocate for Respondent 2 : Mr. Jadhavar Santosh S.

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CORAM : V.K. JADHAV & SANDIPKUMAR C. MORE, JJ.

Dated : February 23, 2022

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PER COURT :-

1. The appellants are seeking regular bail in connection with Crime No.220 of 2020 registered with Dhoki Police Station, Dhoki, Tq. and District Osmanabad for the offences punishable under Sections 302, 201, 143, 147, 149, 323 of the Indian Penal Code, under Section 135 of Maharashtra Police Act and under Section 3(2)(v) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989.

2. Their applications with similar prayer came to be rejected by the Special Judge, Osmanabad vide order

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dated 22.01.2021 passed below Exhibit-7 in Special Case No.99 of 2020. In terms of the provisions of Section 14-A (2) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 the appellants have preferred this appeal.

3. Heard both sides.

4. Though, the learned counsel appearing for respondent no.2 has pointed out to us the findings recorded in the postmortem report, particularly, in paragraph no.21 about oozing of blood from the tip of the penis, testicles are normal. However, in terms of our earlier order dated 28.10.2021 in criminal appeal no.262 of 2021, present appellants are also entitled to be released on bail on the principle of parity.

5. These appellants and the appellants in criminal appeal no.262 of 2021, who were released on bail by this Court by order dated 28.10.2021 as referred above, allegedly extended beating to deceased Pappu @ Suresh. Prosecution case entirely rests upon the circumstantial

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evidence. It appears that on the basis of the statement of one witness Chaturbhuj, deceased was lastly seen alive in the company of these appellants and other co-accused persons. However, the Medical Officer, who has conducted postmortem examination has given the opinion that death of the deceased does not suggestive of homicide. Even, the committee constituted by the Civil Surgeon has given the opinion that there is nothing to suggest about the manner of homicidal death of deceased Suresh, unless proved otherwise. In view of the same, we had observed in the earlier order that it is for the trial court to consider the possibility of homicidal hanging while appreciating the medical evidence subject to cross-examination of the defence counsel. The appellants before us are also entitled for the same parity. There are no antecedents. There is no possibility of absconding. Thus, by imposing certain conditions, we are inclined to release the appellants on bail. Hence, the following order :-

ORDER

- i. Criminal Appeal is hereby allowed.

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- ii. Appellant No.1–Ankush s/o Indrajeet Bukan, 2- Popat s/o Chaggan Wakure and 3-Samadhan s/o Haribhau Wakure in connection with Crime No.220 of 2020 registered with Dhoki Police Station, Dhoki, Taluka and District Osmanabad for the offences punishable under Section 302, 201, 143, 147, 149, 323 of the Indian Penal Code, under Section 135 of Maharashtra Police Act and under Section 3(2)(v) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 vide Special Case No.99 of 2020, be released on bail on furnishing Personal Bond in the sum of Rs.20,000/- (Rupees twenty thousand) each, with one solvent surety each in the like amount.
- iii. The appellants shall not tamper with the prosecution evidence in any manner.

- iv. The appellant Nos.1-Ankush s/o Indrajeet Bukan, 2-Popat s/o Chaggan Wakure and 3-Samadhan s/o Haribhau Wakure shall not enter within the limits of village Bukanwadi till the trial is over.
- v. Appeal is accordingly disposed off.

(SANDIPKUMAR C. MORE, J.) (V.K. JADHAV, J.)

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