

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

CRIMINAL APPEAL NO.840 OF 2022

SUJIT RAJKUMAR KAMBLE AND OTHERS
VERSUS
THE STATE OF MAHARASHTRA AND ANOTHER

...

Mr. Anand V. Indrale Patil, Advocate for the Appellants.

Mr. P.G. Borade, APP, for the Respondent – State.

Mr. Krishna Rodge, Advocate for Respondent No. 2.

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**CORAM : R.G. AVACHAT &
R.M. JOSHI, JJ**

DATE : DECEMBER 13, 2022.

PER COURT :

1. Learned Advocate for the Appellants submitted that charge-sheet has already been filed after completion of investigation and in view of the fact that no specific role of causing assault on the deceased is attributed to the Appellants, they be enlarged on bail.

2. Learned APP and learned Advocate appearing for Respondent No. 2 vehemently opposed the said contention. It is pointed out to this Court that all the accused came together and assaulted on the deceased and his brother. It is also pointed out that one of the

Appellant herein has criminal antecedents and there is every likelihood that Appellants after being released on bail will tamper with the evidence of prosecution.

3. *Prima facie* perusal of material on record indicates that no role is attributed to the present Appellants of causing actual assault on the deceased. It is apparent that after the assault deceased died after 7 days of the incident. The injury certificate placed on record, as pointed out by the Counsel for the parties, indicate that the 4 injuries including abrasions were caused to the deceased and if assailants were 7 in number armed with weapons, the intention to eliminate the deceased becomes doubtful.

4. At this stage, considering the role attributed to the present Appellants herein and in view of the fact that charge-sheet is already been filed, we find no reason to deny bail to them. Apprehension of Respondents about pressuring of prosecution witnesses can be taken care by restraining the entry of the Appellants in Udgir Taluka for six months from the date of the order.

5. In view of the above, the Appeal succeeds.
Hence the following order:

ORDER

- (A) Criminal Appeal is allowed.
- (B) Impugned order dated 17th October, 2022 passed by learned Additional Sessions Judge, Udgir is quashed and set aside.
- (C) Application (Exh.01) filed by Appellants stands allowed. Appellants be released on bail on furnishing P.R. bond in the sum of Rs. 15,000/- (Rupees Fifteen Thousand only) each with one surety in the like amount, in connection with F.I.R. bearing C.R. No. 0404 of 2022 registered with Udgir Gramin Police Station for the offences punishable under Sections 143, 147, 148, 149, 307, 323, 336, 506 of Indian Penal Code, 1860 and Section 3(1)(4)(5) and 3(2)(v-a) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989, on following condition:
 - (i) The appellants shall not to enter jurisdiction of Udgir Taluka for the period of six months from today.
 - (ii) The appellant shall not tamper with the prosecution evidence.

(iii) The appellant not to contact and pressurize the prosecution witnesses in any manner whatsoever.

(R.M. JOSHI, J.)

(R.G. AVACHAT, J.)

Malani