

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

CRIMINAL APPEAL NO.6 OF 2022

Shankar Sambhaji Thorat ... Appellant
Versus
The State of Maharashtra and Ors. ... Respondents

Mr. Rahul Patil, for the Appellant.
Mrs. P. P. Shinde, APP for the Respondent – State.
Ms. Devyani Kulkarni, Appointed Advocate, for Respondent No.2.

**CORAM : REVATI MOHITE DERE &
V. G. BISHT, JJ.**

DATE : 24th JUNE 2022

P. C. :

- 1 Heard learned counsel for the parties.
- 2 This is the second Appeal, preferred by the appellant under Section 14-A of the SC and ST Act, seeking his enlargement on bail in connection with C.R. No. 06 of 2018 registered with the Karad Taluka Police Station, District-Satara for the alleged offences punishable under Sections 302, 120B r/w 34 of the Indian Penal Code and Sections 3(2)(v), 3(2)(vs), 6 of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989.

3 Perused the papers. The appellant's first Bail Application was dismissed by this Court (Coram: Indrajit Mahanty & A.M. Badar, JJ.) vide order dated 24th June, 2019. The said order is on page 200 of the aforesaid Appeal.

4 Learned Counsel for the appellant submits that after the appellant's first bail application was dismissed, similarly placed co-accused i.e. accused No.1-Suhas Shankar Thorat was granted bail, by the trial Court. He submits that the appellant is languishing in custody since 04/01/2018 and that till date, charge has not been framed against the appellant. Learned Counsel for the appellant also submits that one of the consideration for rejecting the appellant's bail application by this Court was finding of human blood on the shirt of the appellant. He submits that the CA report, which is at page 190 of the aforesaid Appeal, clearly shows that the clothes of the appellant were not stained with blood and as such this Court was misled.

5 The prosecution case rests entirely on circumstantial evidence. The witness on last seen is, one Sagar Savkar Tadakhe. It appears

stated that on 4th January, 2018 at about 7:30 p.m., Sagar Tadakhe had seen Baban Hindurao Gade (deceased) in the Maruti Suzuki belonging to Aabaso Hanmant Yadav. Sagar Tadakhe has stated that co-accused-Suhas Shankar Thorat was driving the said vehicle and that the deceased was sitting next to Suhas and that the appellant was sitting on the rear seat. It is further stated that on 05/01/2018, at about 08:00 a.m., he learnt from the villagers that Baban Hindurao Gade was seen on the road in an injured condition and that he was dead; and Baban Gade was found to be severely injured; and that there were tyre marks on his body. Injuries were also seen on his forehead, right eye, ear pinna, right shoulder, chest, hands, right thigh and leg.

6 As far as recovery of blood stained clothes of the appellant, at his instance is concerned, the same appears doubtful, as the CA report shows that the clothes of the appellant were not stained with blood.

7 Prima-facie, the only material relied upon by the prosecution is last seen. This is the only evidence as far as last seen is concerned

qua the appellant. It is not in dispute, that co-accused No.1-Suhas Shankar Thorat has been released on bail. The appellant is in custody and till the date charge has not been framed.

8 Considering the aforesaid and the evidence on record *qua* the appellant, the appeal is allowed and the appellant is enlarged on bail, on the following terms and conditions :

ORDER

- i) The appellant be enlarged on bail on furnishing P.R. Bond in the sum of Rs.20,000/- with one or two local sureties in the like amount;
- (ii) The appellant shall attend the concerned Police Station on the first Saturday of every month between 10:00 a.m. to 11:00 a.m, till conclusion of trial;
- (iii) The appellant shall inform his latest place of residence and mobile contact number immediately after being released and/or change of residence or mobile details, if any, from time to time to the Court seized of the matter and to the Investigating Officer of the concerned

Police Station;

(iv) The appellant to cooperate with the conduct of the trial and attend the trial Court on all dates, unless exempted;

(v) The appellant shall not tamper with the evidence or attempt to influence or contact the complainant, witnesses or any person concerned with the case;

(vi) The appellant shall file an undertaking with regard to clauses (ii) to (v) in the trial Court, within two weeks of his release;

(vii) If there is breach of any of the aforesaid conditions, the prosecution shall be at liberty to seek cancellation of the appellant's bail.

9 The appeal is accordingly allowed and disposed of in the aforesaid terms.

10 It is made clear that the observations made herein are *prima*

facie, and the trial Court shall decide the case on its own merits, in accordance with law, uninfluenced by the observations made in this order.

11 All concerned to act on the authenticated copy of this order.

V. G. BISHT, J.

REVATI MOHITE DERE, J.