

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
NAGPUR BENCH, NAGPUR.**

CRIMINAL APPEAL NO. 321 OF 2022

Chote Kha Anwar Kha Pathan,
Aged about 55 years, Occu. - Labour,
R/o Netaji Nagar, Yavatmal.

.... **APPELLANT**

// VERSUS //

- 1) State of Maharashtra,
through Police Station Officer,
Police Station Awdhootwadi,
Dist. Yavatmal.
- 2) Nikhat Wasim Pathan (Complainant)
Aged about 27 years,
R/o Netaji Nagar, Yavatmal.
- 3) Jijabai Tulshiram Yerne,
Aged about 56 years,
R/o Netaji Nagar, Yavatmal.

.... **RESPONDENTS**

Mr. Mir Nagman Ali, Advocate for Appellant.
Mr. M.J. Khan, Additional Public Prosecutor for Respondent No.1

**CORAM : SUNIL B. SHUKRE AND
G.A. SANAP, JJ.**

DATED : 19.07.2022

ORAL JUDGMENT : (Per Sunil B. Shukre, J.)

1. Heard. **Admit.** Heard finally by consent of the learned counsel appearing for the parties.

2. We find that the only role attributed to this Appellant by the witnesses is that he was one of the abettors to the crime which the other four accused had committed in the present case. According to the witnesses, Neeraj Waghmare and Chote Kha Pathan were the abettors of the crime while Rehman Shaikh, Nitin Pawar, Nilesh Uike and Abhinav Shende were the actual assailants. Niraj Waghmare has been released on bail by this Court vide order dated 12.04.2022 in Criminal Appeal No.142 of 2022. The case of the Appellant is no different than the case of Niraj Waghmare and therefore, he is entitled to benefit of principle of parity. Resultantly, we pass the following order :

- (i) The Appeal is allowed.
- (ii) The impugned order dated 20.04.2022 passed by learned Additional Sessions Judge, Yavatmal in Special S.T. No. 2 of 2022, is set aside.
- (iii) It is directed that the Appellant Chote Kha Anwar Kha Pathan be released on bail on he executing P.R. bond of Rs.50,000/- (Rs. Fifty Thousand only) with one solvent surety in the like amount.
- (iv) The Appellant is directed to attend the Police Station, Awadhootwadi once in a week preferably on every

Wednesday in between 06.00 pm to 08.00 pm till the conclusion of the trial.

- (v) The Appellant shall not tamper with the prosecution witnesses.
- (vi) The Appellant shall regularly attend the Trial Court, shall not seek any adjournments except on ground beyond his control and shall fully co-operate with the Trial Court for expeditious conclusion of the trial.

(G.A. SANAP, J.)

(SUNIL B. SHUKRE, J.)

Kirtak