

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

CRIMINAL APPEAL NO. 356 OF 2022

Bhaskar S/o Dadaraoji Ithape,
Aged 60 years,
Occ. - Agriculturist and Social Worker,
R/o Jijau Nagar, Sindhi Meghe, Wardha.
(Presently at District Prison at Wardha)

.... **APPELLANT**

// **VERSUS** //

- 1) The State of Maharashtra,
through Police Station Officer,
Police Station Sawangi (Meghe),
District Wardha.
- 2) Nilesh S/o Vasantrao Hatmode,
Aged 29 years, Occ.- Labour,
R/o Paloti, Wardha,
Tahsil and District Wardha.

.... **RESPONDENTS**

Mr. R. M. Daga, Advocate for the Appellant.
Mr. I.J. Damle, Additional Public Prosecutor for Respondent No.1
Mrs. Hemlata S. Dhande, Advocate (Appointed) for Respondent
No.2.

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

DATED : 14.07.2022

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

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

2. On going through the charge-sheet, we find that this is a case entirely based on circumstantial evidence and even the circumstantial evidence is of such a nature that it does not appear to be *prima facie* sufficient to point an accusatory finger at the Appellant at least at this stage. Admittedly, There is no last seen evidence and admittedly, there is no such evidence as discovery of dead-body at the instance of the present Appellant. Some witnesses have expressed suspicion against the present Appellant and so it was expressed against his co-accused Vilas. Co-accused against whom also there is no last seen evidence and there is no such evidence as discovery of dead-body at his instance, has been already released on bail. Case of this Appellant, therefore, cannot be distinguished from that of co-accused Vilas. Charge-sheet is already filed and his custodial interrogation is not required. Even upon the strength of the worth of material available on record against the Appellant, we find that the Appellant is entitled to be released on bail. Resultantly, we pass following order :

- (i) The Appeal is allowed.
- (ii) The order passed by the learned Additional Sessions Judge, Wardha dated 06.05.2022 in M.C.A. No. 167/2022 rejecting the application for bail filed on behalf of the Appellant, is hereby quashed and set aside.

- (iii) The Appellant Bhaskar S/o Dadaraoji Ithape, who is in jail be released on bail in connection with Crime No.601/2021 for the offences punishable under Sections 302, 201, 120B read with Section 34 of the Indian Penal Code and Sections 3(2)(v) and 3(2)(va) of the Schedule Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989, 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, Sawangi (Meghe) once in the three months and shall mark his presence.
- (v) The Appellant is also directed that he shall remain personally present on every date of hearing before the Trial Court.

With this, the Appeal is allowed and disposed of.

Mrs. Hemlata S. Dhande, learned Advocate (Appointed) for Respondent No.2. be paid remuneration of Rs.10,000/- (Rs. Ten Thousand only).

(G.A. SANAP, J.)

(SUNIL B. SHUKRE, J.)