

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH AT NAGPUR

CRIMINAL APPEAL NO. 448/2022

1. Ramu alias Ramkrishna Sudhakar Wagh,
aged 30 years, Occ. Agriculturist,
2. Narayan Gajanan Wagh,
aged 22 years, Occ. Agriculturist,

Both r/o Ambikapur, Khamgaon Rural,
Tq. Khamgaon, Dist. Buldhana.

...APPELLANTS

...V E R S U S...

1. State of Maharashtra through
PSO Khamgaon (Rural), Tq. Khamgaon,
Dist. Buldhana.
2. XYZ (Victim)
In Crime No. 233/2021, through
PSO Khamgaon (Rural), Tq. Khamgaon,
Dist. Buldhana.

...RESPONDENTS

Mr. S. V. Sirpurkar, Advocate for appellants.
Mr. M. J. Khan, A.P.P. for respondent no.1.

CORAM:- ROHIT B. DEO & ANIL L. PANSARE, JJ.
DATED :- 04.10.2022

JUDGMENT (Per: Anil L. Pansare, J.)

The appellants have put forth following substantive prayers:

“1) Allow the appeal and quash and set aside the order (at Annexure IV), passed by the Ld. Extra Jt. District Judge and Additional Sessions Judge, Khamgaon, in

Special Criminal Case No.92/2021 dated 31.05.2022, rejecting the bail application filed by the present appellants.

2) Release the appellants on bail upon them furnishing solvent surety to the satisfaction of this Hon'ble Court in connection with Crime No.233/2021 registered at Khamgaon rural Police Station on 19.06.2021 for the offences punishable under section Ss 307, 324, 323, 452, 354, 354-A, 143, 147, 148, 149, 504 and 506 of the Indian Penal Code r/w Ss 3 (1) (r), 3(1)(s), 3(1)(w)(i)(ii), 3(2) (5), 3(2)(va) of the Scheduled Caste and Scheduled Tribe (Prevention of Atrocities) Act, r/w Ss 8 and 12 of the Protection of Children From Sexual Offences Act, u/s 135 of the B.P.Act.”

2. The learned counsel for the appellant submits that at the outset four out of six accused have been released on bail. Accordingly, the applicant seeks release on the ground of parity.

Learned A.P.P. does not dispute that co-accused have been released.

3. We have gone through the order dated 15.12.2021 passed in Criminal Appeal No.465/2021, wherein this Court (Coram: M. S. Sonak and Pushpa V. Ganediwala, JJ.) has been pleased to allow the appeal and further pleased to release the co-

accused Sagar alias Dinkar Wagh, Praveen Wagh, Vaibhav Wagh and Yogesh Wagh on bail. The accusations made against co-accused Sagar and Pravin are more serious than the accusations made against the present appellants.

4. In essence, the complaint is that on 19.06.2021, at about 07.00 a.m. when the informant, who is minor was taking bath, ten persons entered the house. One of them, Pravin assaulted uncle of the informant by sword. Sagar assaulted him by knife. The applicant Ramu along with two accused also assaulted the uncle with knife and the applicant Narayan along with other co-accused assaulted other members of family by sticks. In furtherance, the co-accused Sagar and Pravin pulled the informant from bathroom. Pravin pointed knife on the throat of the informant and when tried to defend, she sustained injury on her left hand. Thereafter, Sagar and Pravin have molested her by pressing breasts and doing other acts. Accordingly, the FIR came to be lodged.

5. We need not go into the details of the role played by each accused. Suffice it to note that Sagar and Pravin who allegedly have played grievous role than the present applicants,

have been released on bail, the applicants are entitled to be released on bail on the ground of parity. Even otherwise, the investigation is complete and charge-sheet has been filed. Nothing is to be recovered from the applicants. The applicants are young. The prosecution has not placed on record any criminal antecedents against the applicants. Hence, we pass the following order.

ORDER

- (i) The appeal is allowed.
- (ii) Order dated 31.05.2022 passed by learned Extra Joint District Judge and Additional Sessions Judge, Khamgaon, below Exh.-23 in Special Case No.92/2021, is quashed and set aside.
- (iii) Appellant no.1 Ramu alias Ramkrishna Sudhakar Wagh and appellant no.2-Narayan Gajanan Wagh, be released on bail in connection with Crime No.233/2021, registered with Police Station Khamgaon Rural, for an offence punishable under Sections 307, 324, 323, 452, 354, 354-A, 143, 147, 148, 149, 504 of the Indian Penal Code and Sections 3(1) (r), 3(1)(s), 3(1)(w)(i)(ii), 3(2)(5), 3(2)(va) of the Scheduled Caste and Scheduled Tribe (Prevention of Atrocities) Act, Section 8 and 12 of the Protection of Children From Sexual Offences Act and Section 135 of the Bombay Police Act, on they executing P.R. Bond in the sum of

Rs.25,000/- each with one solvent surety each in the like amount.

(iv) The appellants shall not tamper with the prosecution evidence or shall not try to pressurize the witnesses.

(v) The appellant shall attend the trial Court on each and every date, unless specifically exempted by the trial Court.

(vi) The appellants shall not enter territorial limits of Khamgaon city, except for attending the Court.

The appeal is disposed of.

(Anil L. Pansare, J.)

(Rohit B. Deo, J.)

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