

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

CRIMINAL APPEAL NO.504/2022

Ganesh s/o Ashok Kathole

Vs.

State of Maharashtra, through P.S.O., Police Station, Shegaon City, Dist. Buldhana and another

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Shri Nikhil Tekade, Advocate for appellant
Shri I.J. Damle, APP for non-applicant No.1

CORAM : SMT. M.S. JAWALKAR, J.

DATED : 12/09/2022

Heard.

2. The present appeal is filed under Section 14-A of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 (for short "Atrocities Act") for grant of bail.

3. It is submitted by the learned counsel for the appellant that the appellant was arrested on 25/04/2022. It is further submitted that his name is not there in the First Information Report. The supplementary statement came to be recorded on 20/06/2022. There is nothing on record to show how the name of this appellant is revealed as an accused by the investigating officer. He also placed on record the order of this Court in Criminal Appeal No.481/2022 by which this Court released the appellant Nitin Vijay Palhade on bail.

4. This Court allowed appeal filed by Nitin Palhade, mainly on the ground that the learned District Judge ought to have come to the conclusion that on the

date of remand itself, the police custody was not asked for, which clearly goes to show that there was no necessity for custodial interrogation. The learned Sessions Judge also ought to have taken into consideration the fact that though the offence alleged is a very serious crime, this Court held that learned Sessions Judge ought to have taken into consideration the important aspect of need and necessity of the detention of the appellant in the crime for the specific purpose and more particularly for the purpose of custodial interrogation.

5. The present appellant also came to be arrested in the crime registered vide Crime No.228/2022 for the offence punishable under Sections 323 and 324 read with Section 34 of the Indian Penal Code and Sections 3(1)(r) (s), 3 (1)(va) of the Scheduled Caste and Scheduled Tribe (Prevention of Atrocities) Act, 1989. His name is not appearing in the First Information Report. The supplementary statements are subsequent to arrest. The application for bail came to be rejected on the same ground by the learned Special Judge, Khamgaon, District Buldana.

6. Perusal of the case diary and in view of the order passed in 481/2022, on the ground of parity, the appellant is also entitled to be released on bail. Hence, I proceed to pass the following order:

ORDER

- i) The appeal is allowed.
- ii) The impugned order dated 08/07/2022 passed by the learned Special Judge, Khamgaon, Dist. Buldhana in

Bail Application in Crime No.228/2022, rejecting the bail application, is quashed and set aside. The prayer made by the appellant to release him on bail is allowed.

iii) The appellant/accused be released on bail on his furnishing P.R. bond in the sum of Rs.25,000/- with one surety in the like amount.

iv) During the pendency of trial, the appellant shall not tamper with the prosecution evidence. The appellant shall not pressurize or threaten the prosecution witnesses.

v) The appellant shall be released forthwith, if he is not required in any other crime on his furnishing bail.

7. The Criminal Appeal stands disposed of.

JUDGE

R.S. Sahare