

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

**Criminal Appeal No. 534 of 2021**

Sachin S/o Manohar Mahalle

**Versus**

The State of Maharashtra, through Police Station Officer, Yavatmal City,  
Dist. Yavatmal and another

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Office Notes, Office Memoranda of  
Coram, appearances, Court's Orders  
or directions and Registrar's order

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Court's or Judge's Order

Shri Manoj P. Kariya, Advocate for the appellant.

Shri V.A.Thakre, APP for the respondent no.1.

Shri Rajwardhan S. Gade h/f Shri V.D.Darne, Advocate  
for the respondent no.2.

**CORAM : ANIL S. KILOR, J.**

**DATED : 18<sup>th</sup> FEBRUARY, 2022.**

This appeal is arising out of the order below  
Exh.1 dated 6<sup>th</sup> December, 2021 passed by learned  
Additional Sessions Judge, Yavatmal in Criminal Bail  
Application No. 417 of 2021 rejecting the application  
for grant of bail under Section 439 of the Code of  
Criminal Procedure Code in Crime No. 481 of 2021 for  
the offence punishable under Sections 365, 397, 109,  
504, 506 of Indian Penal Code read with Section 3(2)  
(v-a) of the Scheduled Castes and Scheduled Tribes

(Prevention of Atrocity) Act, 1989 read with Section 3 and 25 of Arms Act.

2. It is to be noted that on rejection of anticipatory bail by this Court, the appellant filed Special Leave Petition (SLP) before the Hon'ble Supreme Court which came to be rejected and on the statement that the chargesheet has been filed, the appellant was permitted to apply for regular bail and accordingly, the appellant surrendered and applied for regular bail under Section 439 of the Code of Criminal Procedure.

3. The appellant was remanded to police custody for three days and thereafter he is in judicial custody. On 6<sup>th</sup> December, 2021, the learned Additional Sessions Judge, Yavatmal rejected the application of the appellant for regular bail and the same is challenge in this appeal.

4. I have heard Shri Kariya, learned counsel for the appellant and Shri Thakre, learned Additional Public Prosecutor for the respondent no.1/State and Shri Rajwardhan Gade, learned counsel for the respondent no.2.

5. Shri Kariya, learned counsel for the appellant submits that chargesheet is filed on 19<sup>th</sup> July, 2021 and after the appellant had surrendered himself on rejection of Special Leave Petition (SLP) by the Hon'ble Supreme Court of India for grant of anticipatory bail, thereupon, on 24<sup>th</sup> January, 2022, supplementary chargesheet was filed. He therefore, submits that as the investigation is completed and chargesheet has already been filed, he may be released on regular bail.

6. It is submitted that the main accused is absconding who has played main role in the alleged offence whereas, the appellant comes into picture subsequently, and except allegations that the appellant has abused the complainant on caste and assaulted by plastic pipe, there are no other allegations.

7. The learned counsel for the appellant further points out that in the last part of the First Information Report on one place there was mentioned that the appellant had threatened the complainant. He, therefore, submits that at the most while granting regular bail certain conditions can be imposed.

8. As regards criminal antecedents and the cases mentioned in the reply of the State, Shri Kariya learned counsel for the appellant submits that out of

four cases in three criminal cases, he had already been acquitted and one case is pending wherein though the offence is registered under Section 302 of Indian Penal Code, while granting anticipatory bail by this Court, this Court has specifically observed that it cannot be said that the appellant is the conspirator of crime.

9. In the said backdrop, he further submits that it cannot be said that there are criminal antecedents against the appellant and even otherwise that cannot be the ground for rejection of bail as held by the Hon'ble Supreme Court of India.

10. On the other hand Shri Thakre, learned Additional Public Prosecutor has drawn attention to the allegations made in the First Information Report and submits that since the allegations are serious and looking to the criminal antecedents, there is every possibility that he may pressurize the prosecution witness and tamper with the evidence, he therefore prays that the appeal may be dismissed.

11. Learned counsel for the respondent no.2 reiterated the arguments made by the learned Additional Public Prosecutor prays for rejection of the appeal.

12. I have perused the record and also gone through the findings recorded by the learned Sessions Judge. It appears that while rejecting the regular bail application, the learned Sessions Judge has given more weightage to the criminal antecedents and particularly, the involvement of the applicant in murder case. The learned Sessions Judge has also emphasised on the role played by the appellant in the alleged offence i.e abusing the complainant on his caste and assaulting the complainant by plastic pipe and thereafter threatening to the complainant.

13. Learned counsel for the appellant has pointed out that this Court while granting anticipatory bail has categorically observed that there is no material available on record to show that the appellant is the conspirator in the murder case. As far as the other three cases are concerned, the learned counsel for the appellant has already made statement, that the appellant has already been acquitted in other three cases. The criminal antecedents cannot be the ground for rejection of the bail application, in that view of the matter, I find that the learned Sessions Judge has given unnecessary weightage to the pending criminal case against the appellant, having charge of murder.

14. As far as the merit of the present case is concerned, the chargesheet is already filed after completing the investigation.

15. After going through the contents of the First Information Report, I am of the opinion that the appellant is entitled for grant of bail with certain conditions. Accordingly, I pass the following order.

### ORDER

- i. Criminal Appeal is allowed;
- ii. Order below Exh.1 dated 6<sup>th</sup> December, 2021 passed by the learned Additional Sessions Judge, Yavatmal in Criminal Bail Application No. 417 of 2021 rejecting the application for grant of bail under Section 439 of the Code of Criminal Procedure for the crime no. 481 of 2021 is hereby quashed and set aside.
- iii. It is hereby directed that the appellant shall be released on bail on furnishing P.R.Bond of Rs.50,000/- with solvent surety of equal amount.
- iv. The appellant shall not enter into the Yavatmal District till the trial is over excluding the date of trial.
- v. The appellant shall submit his address to the concerned Police Station and keep informing the change in the address, if any.
- vi. The appeal is disposed of.

[ANIL S. KILOR, J.]