

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

CRIMINAL APPEAL NO. 762 OF 2022

Gajanan S/o. Dagadu Nagrik,
Age : 29 years, Occ: Agriculturist,
R/o. Moli, Tah. Mehkar,
Distt. Buldhana.

.... APPELLANT.

// VERSUS //

1. State of Maharashtra,
Through P.S.O. Janefal,
Dist. Buldhana.
2. Shri Raju Ashok Wankhede,
Aged 28 years, Occ. : Private
R/o. Moli, Tah. Mehkar,
Distt. Buldhana.

.... RESPONDENTS.

Shri Amol G. Hunge, Advocate for Appellant.
Shri S.D.Sirpurkar, A.P.P. for Respondent No.1.
None for Respondent No.2

CORAM : ANIL S. KILOR, J.
DATED : DECEMBER 12, 2022.

ORAL JUDGMENT :

1. Heard learned counsel for the appellant and the learned A.P.P.
for the respondent No.1. None for the respondent No.2, though served.

2. **ADMIT.** Heard finally by consent of the parties.
3. By this appeal under Section 14-A of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 (hereinafter referred to as “the Atrocities Act”) the appellant is seeking regular bail.
4. This Court allowed the applications of the co-accused and thereby granted regular bail. The applicant is similarly circumstanced. This Court while granting bail has observed thus:

“11. It is to be noted that the appellants are in jail for the last three months. The investigation is almost over. It is to be noted that as far as the appellants are concerned, they have been remanded to judicial custody. This would, therefore, clearly indicate that for the purpose of custodial interrogation or for the purpose of recovery, the detention of the applicants is not warranted. The only objection that needs to be dealt with is the apprehension put forth by the prosecution.

12. In my considered opinion, on the basis of the apprehension put forth by the prosecution, the bail cannot be denied if the appellants are otherwise entitled to get the same. The apprehension can be taken care of by imposing appropriate conditions. It is further pertinent to note that the offence alleged to have been committed under the Indian Penal Code is under section 324. The offences alleged to have been committed under the Atrocities Act are under sections 3(1)(r), 3(1)(s), 3(1)(u) and 3(2)(va). Considering the punishment provided for the offences under the Atrocities Act, the accused cannot be detained in jail, pending the trial for indefinite period. There must be

justifiable grounds to warrant such a detention. In order to warrant the detention, the Court has to bear in mind the seriousness of the crime, the stage of investigation and the dominant position, if any, of the accused persons and the members of the particular community. In this case, the crime allegedly committed is of abusing informant and his family members in the name of caste. There is allegation of causing hurt by dangerous means or weapon. In my view, the gravity of crime in this case is not such to deny the bail to the applicants.

13. In the above set of facts, I am of the view that the incarceration of the appellants in this crime pending the trial is not at all warranted. The apprehension placed on record by the learned APP can be taken care of by imposing appropriate conditions on the appellants. On the basis of the apprehension placed on record, the bail cannot be denied to the appellants. ...”

5. In the circumstances, I am of the opinion that the applicant is entitled for grant of bail on the principle of parity. Accordingly, I pass the following order :

- i) The Criminal Appeal is allowed.
- ii) The order dated 21/10/2022 passed by learned Additional Sessions Judge, Mehkar, District : Buldana in Criminal Bail Application No.223 of 2022 is hereby quashed and set aside.
- iii) It is directed that the appellant shall be released on bail in Crime No.250/2022, registered with Police Station,

Janephal, District : Buldhana for the offences punishable under Sections 143, 147, 148, 324, 504, 506 of the Indian Penal Code and Sections 3(1)(r), 3(1)(s), 3(1)(u) and 3(2) (va) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 and Section 135 of the Maharashtra Police Act, on his furnishing P.R. Bond in the sum of Rs.Fifty Thousand with one solvent surety in the like amount.

- iv) The appellant shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case, as also not tamper with the evidence;
- v) The appellant shall attend the Special Court regularly on every date unless exemption is granted by the Special Court.

The Criminal Appeal is **disposed of** in the above terms.

(ANIL S. KILOR, J)

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