

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**CRIMINAL APPELLATE JURISDICTION****CRIMINAL APPEAL (ST.) NO. 16061 OF 2022
WITH
INTERIM APPLICATION NO. 3303 OF 2022**

Sagar Ganpat Vitkar

... Appellant

V/s.

The State of Maharashtra & Anr.

... Respondents

Ms. Anjali Patil for Appellant.

Mr. Ajay Patil, A.P.P. for Respondent-State.

Ms. Shifa Khan, Appointed Advocate for Respondent No.2.

**CORAM : A. S. GADKARI AND
PRAKASH D. NAIK, JJ.****DATE : 25th January 2023.****P.C. :**

1. At the outset learned Amicus-curiae Ms.Shifa Khan raised a preliminary objection and submitted that, the Order impugned herein dated 18th January 2020 (page 424) passed below Exh.4 in Special Atrocity Case No.9 of 2019 has already been upheld by the Co-ordinate Bench of this Court in Criminal Appeal No. 326 of 2020 by its Judgment and Order dated 23rd February 2021 and therefore the present Appeal impugning the same Order is not maintainable. We find substance in the said objection.

2. The Appellant is seeking bail on the ground of parity with co-accused Aakash V. Daundkar, who has been directed to be released on bail by the Co-ordinate Bench of this Court, by its Order dated 1st August 2022 in

Criminal Appeal No. 290 of 2022.

3. As the Appellant did not approach the Trial Court at the first instance claiming parity, in the present Appeal the said contention cannot be appreciated.

4. In view thereof, learned Advocate for Appellant seeks leave to withdraw present Appeal with liberty to file a fresh application for bail before the Trial Court.

Leave and liberty granted.

5. Appeal is disposed off as withdrawn with aforesaid liberty.

6. In view of disposal of Appeal, Interim Application No. 3303 of 2022 pending therein does not survive and is accordingly disposed off.

7. The High Court Legal Services Committee, Mumbai is directed to pay legal professional charges to the learned Amicus-curiae as per Rules.

[PRAKASH D. NAIK, J.]

[A.S. GADKARI, J.]

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