



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

CRIMINAL APPEAL NO. 488 OF 2023

APPELLANT : Ajay S/o. Nanaji Dupare, Age 24
years, Occ. Driver, R/o. Ward No. 05,
Kondi, Urjanagar, Chandrapur, Tah. &
Dist. Chandrapur.

//VERSUS//

RESPONDENTS : 1. State of Maharashtra, through Police
Station Officer, P.S. Durgapur,
Chandrapur, Dist. Chandrapur – 442
404.
2. Shri Pankaj Ramesh Vatekar, Age 27
years, Occ. Private Job, R/o. At Nehru
Nagar, Chandrapur City, Tah. & Dist.
Chandrapur.

Mr. S.P. Bhandarkar, Advocate with Mr. Ganesh Mate, Advocate
for Appellant.

Mr. A.V. Palshikar, APP for Respondent No.1/State.

Mr. K.R. Trivedi, Advocate for Respondent No.2.

CORAM : SHIVKUMAR DIGE, J.

DATED : 3rd NOVEMBER, 2023.

ORAL JUDGMENT

Heard.

02] **Admit.** Appeal is heard finally with the consent of the
learned counsel for the parties.

03] By this appeal, appellant is seeking bail in Crime No.189/2022, registered with Durgapur Police Station, District Chandrapur for the offences punishable under Sections 302, 143, 147, 148, 149, 427, 212 and 120-B of the Indian Penal Code, 1860 (for short “IPC”) and under Sections 3(2)(5) and 3(2)(5-a) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 (for short “SC/ST Act”) and Section 4 read with Section 25 of the Indian Arms Act, 1959 and Section 135 of the Maharashtra Police Act, 1951.

04] It is prosecution’s case that on 07.11.2022, deceased Mahesh Meshram consumed liquor with his friend namely Lala at Emali Bar and Restaurant. Thereafter, while leaving from restaurant, the deceased was attacked by 6 to 7 persons with deadly weapons, at that time deceased tried to save himself and he ran towards the car but the accused persons killed him with deadly weapons and decapitated the deceased. The friend of deceased tried to rescue him but the car was damaged by the accused persons. Thereafter, all the accused persons ran away from the spot in four wheeler. It is alleged that appellant was driving the four wheeler in which the accused persons ran away from the place of incidence after murder of Mahesh.

05] It is contention of learned counsel for appellant that appellant was not present at the time of incident. He came to the place of incidence after the incident. The allegations against the appellant are that he took away the accused persons in his car. Appellant is behind bar for more than almost a year. Investigation is completed and charge-sheet has been filed. Hence requested to allow the appeal.

06] It is contention of learned APP that there were mobile calls between appellant and accused No.3 at the time of incident. It shows that appellant was part of conspiracy to kill the deceased. Appellant took away the accused persons in his car after the incident. There is *prima facie* case against the appellant. Hence requested to reject the application.

07] I have heard both learned counsel, perused FIR and charge-sheet.

08] It appears from record that appellant was not present at the time of incident. It is alleged that he took away the accused persons in his car after the incident. The CDR of call records between appellant and accused No.3 is produced on record. The duration of calls is shown in seconds. Whether appellant was part

of conspiracy or not will be proved by the evidence. Investigation is completed and charge-sheet has been filed.

09] Considering the role attributed to the appellant and he was not present at the time of incident, I am inclined to allow the appeal. Hence I pass following order:

ORDER

- (i) Criminal Appeal is **allowed**.
- (ii) Appellant – Ajay S/o. Nanaji Dupare be released on bail in Crime No.189/2022, registered with Durgapur Police Station, District Chandrapur for the offences punishable under Sections 302, 143, 147, 148, 149, 427, 212 and 120-B of the IPC and under Sections 3(2)(5) and 3(2)(5-a) of the SC/ST Act and Section 4 read with Section 25 of the Indian Arms Act and Section 135 of the Maharashtra Police Act, on his furnishing P.R. Bond in the sum of Rs.25,000/- (Rs. Twenty Five Thousand Only) with one solvent surety in the like amount.
- (iii) Appellant shall not in any manner tamper with the prosecution evidence.
- (iv) Appellant shall not pressurize or threaten the prosecution witnesses.

10] Criminal Appeal is disposed of accordingly.

(SHIVKUMAR DIGE, J.)

Vijay