



IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

949 CRIMINAL APPEAL NO. 858 OF 2024

Ashtapal Ramesh Gawai

....Appellant

VERSUS

The State Of Maharashtra And Another

.....Respondents

.....

Mr. Abhaysinh K. Bhosle, Advocate for Appellant

Mr. D.J. Patil, APP for State

Ms. Karishma Sarin, Advocate appointed for respondent No.2

.....

CORAM : NITIN B. SURYAWANSHI, J.

DATE : 17th DECEMBER, 2024

ORDER :

1. By this appeal filed under Section 14-A of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989, appellant seeks regular bail in Crime No. 195/2022, registered with CIDCO Police Station, Aurangabad, for offence punishable under Sections 302, 143, 147, 148, 149, 120(B), 201 and 114 of Indian Penal Code and Section 3(2)(v) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989.

2. It is the case of the prosecution that on 21.04.2022 informant Aruna Sheshrao Avhad, who is the mother of deceased

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lodged a report with police that she is residing in Pivali Colony, Aurangabad and does household work of other people for survival. She has six sons out of which deceased Manoj aged 27 years was her fourth son. Deceased Manoj along with his wife was residing in one room of Meghawale function hall, situated at N-12, Aurangabad. Since last one month, wife of deceased had gone to her parents house, as she was not keeping well. Sons of late Shri. Ganpat Kharat are looking after the affairs of the function hall and deceased Manoj was serving as watchman/caretaker of function hall. Deceased Manoj from the previous day had been to the house of informant. On asking, deceased told her that he is removed from the work of watchman. On 20.04.2022, at about 3.00 pm Mandapwale Satish Khare and 5 to 6 persons came to her house and took deceased with them for carrying out work of pendol. Thereafter, informant along with her son Bharat went to Shendra to attend a function of relative. At that time, they received a video on the mobile phone of Bharat, which showed that deceased Manoj was being assaulted by tying his hands and legs. Informant along with Bharat went to the house of Mandapwale Khare for making inquiry, but they were not found there. Thereafter, informant also went to Meghawale function hall, but its gate was locked.

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On inquiry with the adjoining occupants, they were told that persons appearing in the video, assaulting deceased by tying his hands and legs are accused Satish Khare, Anand Solas, Anand Gaykawad, Sagar Kharat and his brother Ashtapal Gawai and three unknown persons working with Satish Khare. Thereafter, informant went to the police station where it was informed to her that Ashtapal Gawai (applicant) has admitted Manoj in Ghati hospital and went away. On examination, medical officer declared Manoj dead.

3. Heard learned advocate for the appellant, learned APP for State and learned advocate appointed for respondent No. 2. Perused the investigation papers and charge sheet.

4. Appellant is accused No. 7 in the present crime. He came to be arrested on 21.04.2022. Charge sheet in the present crime is filed on 18.07.2022. Appellant seeks bail on the ground of parity as accused No. 3- Sagar Ganpat Kharat and accused No. 5- Rohan alias Sunny Ganpat Kharat, whose appeal for regular bail was rejected by this Court, are granted bail by the Apex Court vide order dated 01.10.2024 passed in Special Leave to Appeal (Crl.) No. 2195/2024 and accused No. 4 is released on regular bail by the Sessions Court. Copy of order dated

01.10.2024 is placed on record by the learned advocate for the appellant.

5. Considering the fact that appellant is in jail since 21.04.2022 and similar role is attributed to the applicant like that of accused No. 3 to 5 and the fact that appellant had taken deceased to the hospital, appellant is entitled to be released on bail.

6. In the result, following order:

ORDER

- (I) Criminal Appeal is allowed.
- (II) Order dated 06/10/2022, passed by learned Special Judge (under SC ST (POA) Act), Aurangabad, below Exhibit-4 in Sessions Case No. 317/2022, is quashed and set aside.
- (III) Appellant- Ashtapal Ramesh Gawai be released on executing Personal Bond of Rs. 15,000/- with one surety in the like amount, in Crime No. 195/2022, registered with CIDCO Police Station, Aurangabad, for offence punishable under Sections 302, 143, 147, 148, 149, 120(B), 201 and 114 of Indian Penal Code and Section 3(2)(V) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989.

(IV) Appellant shall not enter the jurisdiction of Aurangabad City for a period of one year from today, except for attending the trial.

(V) Appellant shall not tamper prosecution evidence and shall not contact and/or pressurize prosecution witnesses in any manner.

7. High Court Legal Services, Sub Committee, Aurangabad to pay fees of learned advocate appointed to represent respondent No. 2 as per schedule, within a period of four weeks from today.

[NITIN B. SURYAWANSHI, J.]