



IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
BENCH AT AURANGABAD

CRIMINAL APPEAL NO. 894 OF 2024

Babdy @ Babasaheb Keru Gavhane

VERSUS

The State Of Maharashtra And Another

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Mr. V. D. Deshmukh, Advocate for Appellant

Mr. S. B. Narwade, APP for Respondents

Mr. R. A. Cheble, Advocate for Respondent No. 2  
(appointed)

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CORAM : R.M. JOSHI, J

DATE : OCTOBER 21, 2024

PER COURT :

1. On the last date of hearing, only for the reason that matter was kept for recording statement of accused under Section 313 of the CrPC, this appeal was not heard.

2. Learned Counsel for the Appellant submits that before Trial Court on the last date of hearing also the said statement is not recorded. He mentions that the proceedings before the Trial Court is scheduled for today, however, learned Judge is on leave. He, therefore, insists for hearing of this Appeal.

3. Learned APP, on instructions from his counter

part before the Special Court, makes statement that on account of ill-health learned Judge is not available for judicial work today.

4. Since the liberty of the Appellants is involved in this case and the Court is not sure as to when the statement under Section 313 CrPC would be recorded, Appeal is taken up for hearing.

5. Learned Counsel for the Appellant has drawn attention of the Court to the order passed by the Division Bench of this Court in Criminal Appeal Nos. 913 & 880/2022 and more particularly role alleged against co-accused Sanket. It is his submission that there is no difference at all to the role alleged against the Appellant and co-accused Sanket. It is his submission that only on account of financial difficulties, the Appellant could not file present Appeal before this Court. It is his submission that on that count the liberty of the Appellant cannot be jeopardised.

6. Learned APP and learned appointed Counsel for

Informant opposed the Appeal essentially on the ground that the trial is at fag end and at the stage of recording statement of accused under Section 313 CrPC.

7. Considering the stage of trial, this Court refrains itself from making any observations on merits. Suffice it to say that no distinction can be drawn between the role allegedly played by the present Appellant and co-accused Sanket. The said co-accused has been granted bail by this Court almost 1 ½ years back. Hence, parity would apply and on this sole ground, Appeal deserves to be allowed.

8. It is however clarified that grant of bail to the Appellant would not affect the merit/outcome of trial in any manner whatsoever.

9. Having regard to these facts and on parity, Appeal is allowed. Hence, the order:

**O R D E R**

- (i) Appellant in connection with C.R. No. 289/2022 registered with MIDC Police Station, Dist. Ahmednagar for the offences punishable under Sections 302, 341, 143, 147, 148, 149,

323, 504, 506 read with Section 34 of the Indian Penal Code and Sections 3(1)(r)(s), 3(2)(va) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, he shall be released on bail on furnishing PB and SB of Rs. 15,000 (Rupees Fifteen Thousand Only) with one solvent surety in the like amount.

(ii) He shall attend the concerned police station as and when required.

(iii) Bail before Trial Court.

(iv) Fees of appointed Counsel is quantified at Rs. 10,000/- (Rupees Ten Thousand Only) to be paid by High Court Legal Services Authority Sub-Committee, Aurangabad.

(R.M. JOSHI, J.)