



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

CRIMINAL APPEAL (ST) NO. 15912 OF 2023

MANGESH BHAGOJI JAGTAP ..APPELLANT
VS.
THE STATE OF MAHARASHTRA AND
ANR. ..RESPONDENTS

**WITH
CRIMINAL APPEAL NO. 1078 OF 2023**

PRADEEPKUMAR LALJI ..APPELLANT
VS.
THE STATE OF MAHARASHTRA AND
ANR. ..RESPONDENTS

Adv. Suhas Rohile for the Appellants.
Adv. Veerdhawal Deshmukh for Respondent No.2.
Ms. Sangeeta D. Shinde, APP for the State.

CORAM : M. S. KARNIK, J.

DATE : FEBRUARY 29, 2024

P.C. :

1. Heard learned counsel for the appellants, learned counsel for respondent No.2 and learned APP for the State.
2. By these appeals, the present appellants seek regular bail in respect of C.R. No. 591 of 2020 under Sections 363, 364, 302, 201, 120-B of the Indian Penal Code read with Sections 3(2)(v), 3(2)(va) and 6 of the Scheduled Castes

and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 ("Atrocities Act" for short), registered with Wakad Police Station, Pune.

3. The First Information Report is dated 02/09/2020. Appellants Mangesh and Pradeepkumar are original accused Nos.3 and 4 respectively. There are in all 4 accused. Mangesh was arrested on 30/10/2020 and Pradeepkumar was arrested on 17/02/2023 from Uttarakhand as he was absconding. Accused No.1 Ganesh is the main accused. The prosecution's case in brief is that Ganesh had some monetary transactions with Santosh- the deceased. Santosh was not returning the money he had borrowed from Ganesh. Furthermore, Ganesh was upset by the fact that Santosh had misbehaved with his sister and therefore, Ganesh had decided to teach a lesson to Santosh. The present appellants are employees of Ganesh. The prosecution is relying upon extra-judicial confession made by Ganesh to some witnesses that it was he along with the present appellants had committed the alleged offence.

4. Learned APP and learned counsel for respondent No.2

vehemently opposed the appeals so far as the merits are concerned. It is contended that the appellants are protracting the trial and even are not cooperating with the trial Court for framing of charge on the ground that the bail applications are pending. There is a recovery of a motorcycle and a blood-stained knife at the instance of Mangesh. My attention is invited to the order dated 21/12/2022 in respect of the main accused Ganesh Subhedar Pawar in an application for bail preferred by him in this Court. Criminal Appeal No. 815 of 2022 filed by Ganesh seeking bail was withdrawn on 21/12/2022 before the Division Bench of this Court with liberty to file a fresh application for bail before the trial Court if the trial does not conclude within a period of one year. The present appellants had not preferred any appeal for bail in this Court. This is the first time the appellants have approached this Court for bail.

5. The case of the prosecution is based on circumstantial evidence. The material so far as the appellants are concerned is mainly the extra-judicial confession made by

the main accused- Ganesh implicating the present appellants. Appellant- Mangesh is in custody for more than 3½ years. The charge has not been framed yet. As recorded earlier, it is the contention of the learned counsel for respondent No.2 and learned APP that the appellants are not cooperating with the trial Court in framing of charge on the ground that the bail applications are pending. Learned APP expressed apprehension that the appellants may not cooperate with the trial if enlarged on bail. It is submitted that the conduct of the appellants dis-entitling them from getting any relief from this Court. Learned counsel for the appellants, on instructions, assured this Court that the appellants would cooperate with the trial and remain present on every date and would not seek any unnecessary adjournment. The statement is accepted. As per the reasons in the order, I am inclined to enlarge the appellants on bail. It is made clear that if it is found that the appellants are not cooperating with the trial Court or they abscond, the consequences of cancellation of this bail will follow.

6. Considering that the case is based on circumstantial

evidence and the motive is mainly attributed to the co-accused Ganesh, in the facts and circumstances of the present case, considering the length of custody of the appellant - Mangesh, I am inclined to enlarge him on bail. So far as the appellant - Pradeepkumar is concerned, though it is alleged that he was absconding and arrested from Uttarakhand, having regard to the materials on record which is in the nature of extra judicial confession of the main accused- Ganesh implicating him and in the facts and circumstances of the present case, I am inclined to enlarge the appellant- Pradeepkumar on bail as he is in custody for more than 1 year. Though the trial has been expedited by this Court in the aforestated appeal filed by the co-accused Ganesh, the trial is likely to take some time to conclude. There are no criminal antecedents reported against the appellants. Hence, the following order :-

ORDER

- a.** The appeals are allowed.
- b.** The appellants- Mangesh Bhagoji Jagtap and Pradeepkumar Lalji in connection with C.R. No.590 of 2020 registered with Wakad Police Station shall be

released on bail on their furnishing P.R. Bond of Rs.25,000/- each with one or more local sureties each in the like amount.

c. The appellants shall attend the Investigating Officer of Wakad police station once in a fortnight, on first and third Sunday of every month, between 11.00 a.m. and 1.00 p.m.

d. The appellants shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing the facts to Court or any Police Officer. The appellants shall not tamper with evidence.

e. On being released on bail, the appellants shall furnish their contact number and residential address to the Investigating Officer and shall keep him updated, in case there is any change.

f. The appellants shall not leave Pune District after being released on bail, without prior permission of the trial Court.

g. The appellants shall attend the trial regularly. The appellants shall co-operate with the trial Court and shall not seek unnecessary adjournments.

h. The appellants to abide by the statements made herein-before.

7. The appeals are disposed of.

8. I appreciate the valuable assistance rendered by Advocate Veerdhawal Deshmukh who appeared on behalf of respondent No.2 in these proceedings. His engagement may be regularized by the Maharashtra State Legal Services Authority.

(M. S. KARNIK, J.)