

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

CRIMINAL APPEAL NO.1172 OF 2024

Ashish Anand Shinde

...Appellant

V/s.

The State of Maharashtra and Anr.

...Respondents

Mr. Ranjeet M. Pawar *for the Appellant.*

Ms. Shilpa K. Gajare-Dhumal, *APP for Respondent No.1-State.*

Ms. Priyanka Chavan, *for Respondent No.2 (appointed through
Legal Aid Panel*

Mr. S.V. Raut, API, Indapur Police Station, Pune, present.

CORAM : SANDEEP V. MARNE, J.

DATED : 20 December 2024.

P.C.:

1) This is an Appeal filed under the provisions of Section 14-A of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 challenging the order dated 25 September 2024 passed by the learned Additional Sessions Judge, Baramati, rejecting the application filed by the Appellant (accused No.5)-Ashish Shinde for grant of regular bail under Section 439 of the Code of Criminal Procedure, 1973 (the **Code**) in connection with C.R. No.183 of 2024 registered with Indapur

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Police Station, District-Pune (Rural), for the offences punishable under Sections 302, 323, 504, 506, 143, 147, 148, 149 the IPC and under Sections 3(2)(va), 3(2)(v) and 6 of the SCST Act.

2) I have heard Mr. Pawar, the learned counsel appearing for the Appellant, Ms. Gajare-Dhumal, the learned APP appearing for the Respondent No.1-State and Ms. Chavan, the learned counsel appearing for Respondent No.2.

3) The main grounds sought to be canvassed by Mr. Pawar for seeking regular bail in favour of the Appellant are (i) failure to name the Appellant in the main FIR statement and inclusion of his name only in the supplementary statement; (ii) non-ascribing of any specific role to the Appellant in the assault committed on the deceased; (iii) non-recovery of any weapon from or at the instance of Appellant; (iv) some of the statements indicating that assault has been committed first by the deceased; (v) Appellant's long incarceration for over 9 months despite non-commission of the any act resulting in death of the deceased; (vi) registration of cross-FIR against the deceased and (vii) all statements recorded used against Appellant being of relatives and interested witnesses.

4) However, there appears to be three eyewitnesses in the case, who have named the Appellant. The Appellant was apparently a part of the group, which allegedly arrived at the scene armed with weapons. Therefore, this appears to be a pre-

meditated plan to commit assault on the deceased. Offence under Section 34 of the IPC is invoked and there appears to be a common intention on the part of accused to commit the crime in question. At this juncture therefore, it would not be appropriate to consider Appellant's role in isolation.

5) Statements of two eyewitnesses under Section 164 of the Code are recorded, in which both the witnesses have named the Appellant. True it is that none of the statements allege that Appellant is the main assailant nor the fatal injury that has resulted in death is ascribed to the Appellant. However, at the same time Appellant appears to be part of the group, who had common intention to killing the deceased. Considering the date of the arrest, it cannot be said that the incarceration of the Appellant is long enough to release him on bail.

6) Since the crime is alleged to have been committed in furtherance of common intention, release of Appellant on bail at this juncture may facilitate tampering of evidence. In my view, therefore, releasing the Appellant on bail at this juncture is not warranted. However, Appellant would be at liberty to apply afresh for bail after expiry of period of six months before the learned Special Judge. I therefore do not find any valid reason to interfere in the impugned order dated 25 September 2024 passed by the learned Additional Sessions Judge, Baramati.

7) Reserving the liberty as granted above to apply afresh for bail before the learned Special Judge after 6 months, the Appeal is dismissed.

[SANDEEP V. MARNE, J.]