



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY**  
**NAGPUR BENCH, NAGPUR**

**CRIMINAL APPEAL NO. 353 OF 2024**

**APPELLANT:**

Gajanan Baban Bharti,  
Age-36 years, Occu: Homeguard,  
R/o Ambedkar Ward Taluka Ramtek,  
District Nagpur.

**...VERSUS...**

**RESPONDENTS**

- 1] State of Maharashtra,  
through Police Station Officer,  
Police Station- Ramtek,  
District Nagpur (Rural).
- 2] Vishwanath Govardhan Khobragade,  
Aged 51, Occu: Farmer,  
R/o Ward No. 2 Sitapur (Deolapar)  
Tah. Ramtek, District Nagpur.

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Mr. A.C. Jaltare, counsel for appellant.  
Mr. D.V. Chavhan, Senior Counsel (Public Prosecutor) with Mr. K.R.  
Lule, APP for respondent No.1.  
Ms. Radha M. Mishra, counsel (appointed) for respondent no.2.  
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**CORAM : URMILA JOSHI-PHALKE, J.**

**DATE : 12/11/2024**

**ORAL JUDGMENT :**

1. **Admit.** Heard finally with consent of learned counsel appearing for the parties.

2. By preferring this appeal, the appellant has challenged the order passed by the Additional Sessions Judge-8 and Special Judge, Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, rejecting the bail application of the present appellant below Exhibit No.8 in Special Case No.63/2024. The appellant came to be arrested on 29/11/2023.

3. The accusation against the present appellant is on the basis of a report lodged by informant Vishwanath Khobragade, alleging that the deceased Vivek is his son, and on 25/11/2023, at about 7.00 p.m., the deceased, along with his friend Faizan Khan, went to see the procession at Ramtek on a motorcycle. On 26/11/2023, at about 6.00 p.m., when the informant returned home after attending duty, he saw that his son was not in a position to walk properly, he was shivering and limping. On inquiry with his son, his son disclosed that he has been assaulted by some persons at Ramtek, and he is unable to speak and stand properly. Immediately, the informant took him to the hospital

however, the Medical Officer disclosed that the deceased was brought dead. Thereafter, the informant approached the Police station, and after making an inquiry with Faizan Khan, the Faizan Khan disclosed that at about 8.30 p.m. on 25/11/2023, when they were returning from Gad Mandir Ramtek on motorcycle, their motorcycle was dashed against the motorcycle of the co-accused Manish, and therefore, there was a scuffle between them, and during that scuffle the co-accused Manish and his friends stopped the motorcycle and enquired why their motorcycle was dashed, and the deceased was assaulted by all these persons by fist and kick blows. Due to which, the deceased has sustained the injuries and succumbed to the death.

4. After registration of the crime and after arrest of the present appellant, he approached the Special Court for grant of bail, but the Special Court has rejected the bail application on the ground that from the investigation papers the role of the present appellant reveals, and considering the nature of the injuries sustained by the deceased, a prima-facie case is made out. Being aggrieved and dissatisfied with the same, the present appeal is preferred by the appellant.

5. Learned Counsel for the appellant submitted that the other co-accused, Satyandra @ Sattu Gajendra Giri, has also approached this Court for grant of bail, and his appeal was dismissed, and the prayer of bail was rejected, which was challenged before the Hon'ble Apex Court, and the Apex Court has considered the bail application on the ground that there is incarceration for a period of almost 11 months and released him on bail. The similar role is attributed to the present appellant, in view of that, the ground of parity is available, and therefore, he be released on bail.

6. Learned Public Prosecutor for the State though strongly opposed to the said appeal but accepts the contention of the learned counsel for the appellant that other co-accused to whom a similar role is attributed is already released on bail and prays for rejection of the application.

7. Learned counsel for the complainant has also endorsed the same contention and submitted that, considering the evidence against the present appellant, whose involvement is revealed from the investigation papers, the learned trial Court rightly rejected the application, and no interference is called for.

8. After hearing learned counsel for the appellant, learned Public Prosecutor for the State as well as learned counsel for the complainant, perused the investigation papers. As far as the involvement of the present appellant in the alleged crime is concerned, there is no dispute about the same. The role attributed to the present appellant is similar to the co-accused, Satyandra @ Sattu Giri, who is already released on bail by the Hon'ble Apex Court. In view of that, the present appeal deserves to be allowed. Accordingly, I proceed to pass the following order;

- a] Criminal Appeal is allowed.
- b] The appellant -Gajanan Baban Bharti, shall be released on bail, in connection with Crime No. 877/2023 registered with Police Station Ramtek, District Nagpur (Rural) for the offences punishable under Sections 302, 341, 323, 504, 506 and read with Section 34 of the Indian Penal Code; Section 3(2)(V) of the Scheduled Caste and Scheduled Tribes (Prevention of Atrocities) Act, 1989, on executing P.R. Bond of Rs. 25,000/- with one solvent surety in the like amount.
- c] The appellant shall not induce, threat or promise any

witnesses who are acquainted with the facts of the present case.

- d] The appellant shall attend the proceedings without seeking any exemption unless there are exceptional circumstances.
- e] The order passed by the learned Additional Sessions Judge-8 and Special Judge (Scheduled Caste and Scheduled Tribes (Prevention of Atrocities) Act, below Exhibit No.8 in Special Case No. 63/2024, dated 08/04/2024 is hereby quashed and set aside.
- f] The criminal appeal is **disposed of**.
- g] The fees of the appointed counsel be quantified as per Rule.

**JUDGE**