



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

CRIMINAL APPEAL NO.727 OF 2024

Kaustubh Sanjay Sangitrai
Aged about 29 years, Occupation – Priest,
R/o Ambada, Tah. Ramtek,
District Nagpur

...APPELLANT

VERSUS

1. State of Maharashtra,
through P.S.O. Ramtek Police Station,
Ramtek, District Nagpur
2. Vishvanath Gowardhan Khobragade
Aged 51 years, Occupation – Service,
R/o Sitapur, Post Pavni,
Tahsil Ramtek, District Nagpur

...RESPONDENTS

Mr. Abhay Sambre, Advocate for the appellant.
Mr. S.V. Narale, A.PP for the State.
Mr. A. Fule, Advocate for respondent No.2.

CORAM : URMILA JOSHI-PHALKE, J.

DATED : DECEMBER 19, 2024.

ORAL JUDGMENT :

ADMIT. Heard finally with the consent of learned Counsel
for the parties.

2. This appeal is preferred by the appellant under the change
in circumstance that the other co-accused Satyendra alias Sattu s/o
Gajendra Giri is released on bail by the Hon'ble Apex Court vide order

dated 25/10/2024 considering the fact that the charge-sheet has already been filed and the petitioner has undergone incarceration for a period of almost 11 months and released him on bail. On the basis of the Hon'ble Apex Court order this Court has also considered the appeal of the co-accused namely Gajanan Baban Bharti. Therefore, 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 by passing order in Special Case No.63/2024 and under the change in circumstances after this Court has dismissed the appeal bearing No.336/2024.

3. The appellant came to be arrested on 29/11/2023. 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, 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 the Faizan Khan, the Faizan Khan disclosed about the incident dated 25/11/2023 and it revealed that there was a scuffle between the present appellant and the other co-accused, deceased and Faizan Khan on account of dash of the motorcycle of the deceased to the dash of the motorcycle of the co-accused Manish. On the basis of the said report, police have registered the crime against the present appellant.

4. Learned Counsel for the appellant submitted that considering the fact that the Hon'ble Apex Court has already considered the prayer of the co-accused and released him on bail. On the basis of the same, this Court has also considered the prayer of the co-accused Gajanan Baban Bharti for releasing him on bail. The appellant is on a better footing. Only allegation against the appellant is that he assaulted by means of fist and kick blows. Now, investigation is already completed and charge-sheet is already filed, further incarceration of the present appellant is not required. In view of that, he be released on bail.

5. Learned Additional Public Prosecutor for the State and learned Counsel for respondent No.2 strongly opposed the appeal on the ground that the present appellant is identified during the identification parade. The blood stained cloths are recovered at the instance of the

present appellant. In view of that, there is a *prima facie* material against the present appellant to show his connection with the alleged crime. In view of that, the appeal deserves to be dismissed.

6. I have heard learned Counsel for both the parties. Perused the investigation papers. As far as the role attributed to the present appellant is concerned which is only to the extent of assault by fist and kick blows. Initial appeal was dismissed considering that there was common object to eliminate the deceased. But now considering the change in circumstance that the Hon'ble Apex Court has already considered the prayer of the co-accused Satyendra alias Sattu s/o Gajendra Giri for releasing him on bail. On the basis of the order of the Hon'ble Apex Court the prayer of another co-accused Gajanan Baban Bharti is also considered by this Court, and therefore, there is a change in circumstance. Moreover, now investigation is completed and charge-sheet is filed. In view of that, the appeal deserves to be allowed. Accordingly, I proceed to pass the following order:

(i) The appeal is allowed.

(ii) The order dated 08/04/2024 passed by the Additional Sessions Judge-8 and Special Judge (S.C. and S.T.) Act, Nagpur in Special Case No.63/2024, is hereby quashed and set aside.

(iii) The appellant – Kaustubh Sanjay Sangitrai in connection with Crime No.877/2023 registered with Police Station Ramtek, District Nagpur for the offences punishable under Sections 302, 341, 323, 504, 506, 143, 147 read with Section 149 of the Indian Penal Code and Section 3(2)(v), 3(2)(va), 3(1)(r), 3(1)(s) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989, be released on bail on executing P.R. Bond in the sum of Rs.25,000/- with one solvent surety in the like amount.

(iv) The appellant shall not induce, threat or promise any witnesses who are acquainted with the facts of the case either personally or by way of electronic media.

(v) The appellant shall attend the proceedings before the Special Court regularly without seeking any exemption unless there are exceptional circumstances.

7. The contravention of any of the condition would lead to the cancellation of bail.

8. The appeal is disposed of.

(URMILA JOSHI-PHALKE, J.)