



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPEAL NO. 1011 OF 2024

Mahadeo Kisan Avhad,
Age 65 years, Occu. Agriculturist,
R/o Pangarmal,
Tq. and Dist. Ahmednagar. ... Appellant.

Versus

1. State of Maharashtra
2. Shalika Ramesh Chavan,
Age 30 years, Occu. Labour,
R/o Pangarmal,
Tq. and Dist. Ahmednagar. ... Respondents.

WITH

CRIMINAL APPEAL NO. 77 OF 2025

Uddhav Mahadeo Avhad,
Age 35 years, Occu. Nil,
R/o At Post Pangarmal,
Tq. and Dist. Ahmednagar. ... Appellant.

Versus

1. The State of Maharashtra
Through its M.I.D.C. Police
Station, Tq. and Dist. Ahmednagar.
2. Shalika Ramesh Chavan,
Age 30 years, Occu. Housewife,
At Post Pangarmal,
Tq. and Dist. Ahmednagar. ... Respondents.

WITH

CRIMINAL APPEAL NO. 250 OF 2025

Amol s/o Bharat Avhad,
Age 32 years, Occ : Business,
R/o Pangarmal, Ahmednagar

Taluka and District Ahmednagar. ... **Appellant.**

Versus

1. The State of Maharashtra.
2. X.Y.Z. ... **Respondents.**

WITH

CRIMINAL APPEAL NO. 1021 OF 2024

Sandip Pandharinath Avhad,
Age 22 years, Occ : Service,
R/o Pangarmal,
Taluka and District Ahmednagar. ... **Appellant.**

Versus

1. The State of Maharashtra,
Through the Superintendent of Police,
Ahmednagar.
2. The In-charge Investigation Officer,
Ahmednagar, M.I.D.C. Police Station,
Taluka and District Ahmednagar.
3. X.Y.Z. ... **Respondents.**

WITH

CRIMINAL APPEAL NO. 1023 OF 2024

Ganesh Ambadas Avhad,
Age 23 years, Occ : Education,
R/o Pangarmal,
Taluka and District Ahmednagar. ... **Appellant.**

Versus

1. The State of Maharashtra,
Through the Superintendent of Police,
Ahmednagar.
2. The In-charge Investigation Officer,
Ahmednagar, M.I.D.C. Police Station,

Taluka and District Ahmednagar.

3. X.Y.Z. ... Respondents.

...
Advocates for respective Appellants : Mr. Jadhav Satej S., Mr.
A. S. Khedkar, Mr. N. S. Ghanekar, Mr. S. R. Andhale,
respectively.

APP for Respondent-State in all appeals : Mr. S. M. Ganachari.
Advocate for Respondent No.2 in all appeals : Mr. D.R. Markad.
Advocate for victim in all appeals : Ms. Sunita G. Sonawane.

...

CORAM : SHAILESH P BRAHME, J.

RESERVED ON : 16.04.2025

PRONOUNCED ON : 22.04.2025.

ORDER :-

1. Heard finally by consent of the parties.
2. These appeals can be decided by common judgment and order. The appellants are claiming enlargement on bail as they are arrested in furtherance of offence bearing Crime No.542 of 2024, registered with M.I.D.C. Police Station, District Ahmednagar for offences punishable under Sections 189(2), 191(2), 191(3), 190, 103(1), 103(2), 118(1), 115(2), 74, 76, 352, 351(2), 324(4) of Bhartiya Nyaya Sanhita, 2023, Sections 3(1)(r), 3(1)(s), 3(2)(va), 3(v), 3(1)(w)(i) of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act and Section 37(1), 37(3), 135 of Mumbai Police Act.

3. Their applications seeking regular bail filed after submission of charge sheet were rejected by separate orders, by Special Judge, Ahmednagar in Special Case No.223 of 2024. For the sake of convenience, this Court is referring to the paper book of Criminal Appeal No.1011 of 2024.

4. Appellants before this Court are resident of Pangarmal, Taluka and District Ahmednagar. Respondent No.2/informant lodged report on 04.07.2024 that incident took place in a night intervening 03.07.2024 and 04.07.2024 in which her brother-in-law Changdeo Namdeo Chavan staying with her was assaulted by the appellants and villagers. As per her report, at about 8.30 to 9.00 p.m. on 03.07.2024, appellants Mahadeo, Amol, Uddhav and co-accused had been to her hut and armed with weapons, started assaulting her, her son Ramlal and deceased Changdeo suspecting that they had been indulging in theft of she goats of villagers. They were brought to the place of Gram Panchayat Office where one more person was detained by number of villagers under the pretext of purported theft. All of them assaulted informant, her son Changdeo and that unknown person who turned out to be one Pravin Bhosle. In the mob attack, Changdeo succumbed to injuries. Informant and others sustained injuries and were referred to hospital.

5. All the appellants were arrested on 05.07.2024. Charge sheet was filed on 30.08.2024. Thus, for the period of nine months the appellants are behind bars. In this backdrop, learned counsel for appellants have made submissions before me.

6. Mr. Nilesh Ghanekar, advocate for the appellants in Criminal Appeal No.250 of 2025 filed by Amol Bharat Avhad, the Sarpanch has led the arguments which are adopted by other counsels. He would submit that assault on the informant, her son, deceased Changdeo and Pravin Bhosle was made by unknown persons in the late hours of night and in the darkness as there was no electricity. He would submit that in fact appellant Amol who was the Sarpanch had called police and the ambulance and helped the injured. It is submitted that first information report does not indicate specific role attributable to the appellants. Villagers were perturbed because of incidents of theft and the person who was apprehended Mr. Pravin Bhosle was habitual thief. It is submitted that there was no intention to eliminate the deceased as he was outsider and there was no enmity as such. My attention is adverted to the statements of Tejas, Vishnu and Abhishek to demonstrate that there was no electricity and in fact ambulance and police were

called for. Learned counsel would draw my attention to column No.17 of post mortem reports and injury certificates of the victim. From that, it is submitted that it is uncertain as to who caused fatal injury at serial No.3 on right side of occipital region of head. Remaining injuries are not on the vital part of the body and the reason for the death.

7. Additionally, learned counsel Mr. Satej Jadhav appearing for appellant Mahadeo submits that his client is 65 years old and absolutely no incriminating role is assigned to him. The prosecution story is exaggerated one and the allegations are very vague. He would submit that there are no antecedents against his client. The alleged assault at the place of informant is not the cause of death. He would submit that it was a mob fury which caused the life. It is further submitted that statement of Bhupendra Mahadeo Kapare shows that person apprehended by mob Pravin Bhosle had stolen his motorcycle on or about 01.06.2024 and the presence of Pravin Bhosle at the relevant time is unusual.

8. Learned counsel Mr. Khedkar for appellant Uddhav adverts my attention to statement of Sangita Changdeo Chavan which does not refer to act of outraging modesty of informant.

9. Learned counsel Mr. Andhale for appellants Sandip and Ganesh submits that his clients were not present when informant and her family members were allegedly assaulted at her hut and dragged to the office of village panchayat. He tenders on record the voters list to show that there are five persons in the village named as Sandip Avhad. He would also take the plea of alibi for his client who is taking education at Pune.

10. Learned APP Mr. S. M. Ganachari tenders on record relevant papers of investigation. He would strongly oppose the submissions of the appellants. He would submit that informant's family is the only family of Pardhi community in the village and targeted by the appellants. Innocent person lost his life as the villagers took law in their hand. It is submitted that appellant Amol is the Sarpanch who should not have indulged in the overt act. My attention is invited to the spot panchnama, statements of informant and eye witnesses namely Ramlal and Pravin. It is submitted that all appellants are liable because they are present in the mob who assaulted the victims. It is submitted that post mortem report and the injury certificates corroborates the prosecution story. He would

submit that additionally statements under Section 164 of informant and her son Ramlal strengthen the prosecution case.

11. Mr. D. R. Markad appearing for respondent No.2/ informant draws my attention to the affidavit-in-reply of his client to support the submissions of the appellants. It is submitted that his client could not identify the persons in the darkness. It is reiterated that appellant Amol who is the Sarpanch helped them in reaching the hospital. It is stated that she was not in sound state of mind when report was registered. It is reiterated that his client does not have any grievance if the bail is granted to them.

12. Learned counsel Ms. Sunita Sonawane was permitted to address the Court and accordingly affidavit of Pravin Bhosle is filed on record. He was apprehended under the pretext of purported thief and assaulted also. It is submitted that her client is innocent and on the ground of suspicion, he was assaulted. She would opposed the appeals and adopt the submissions of learned APP.

13. I have considered rival submissions of the parties and I have also gone through relevant papers of investigation. Incident took place at night intervening 03.07.2024 to

04.07.2024. When appellant Mahadeo, Amol, Uddhav and other villagers had been to the hut of the informant, informant and her family members were assaulted and dragged to the office of village panchayat. Already a mob had gathered and the persons was apprehended at that place. The villagers again assaulted informant, her son, deceased and Pravin Bhosle.

14. First information report and the statements of the injured Ramlal and Pravin Bhosle do not disclose specific overt act of the appellants. It is not stated by them that each appellant was holding which weapon. Only few appellants were identified by informant and Ramlal. The deceased has sustained as many as ten injuries mentioned in column No.17. Out of them, injury No.3 caused on right side of occipital region appears to be serious and fatal. But, it is difficult to gather as who is author of the injury. Learned counsels for the appellants are therefore justified in contending that first information report and eye witnesses are not specific about the overt act.

15. The place of the informant appears to be in the agricultural land not surrounded by the locality. Spot panchnama does not show that there was any electricity connection at the said place. From the said place, the

informant and her family members are alleged to have dragged to the office of village panchayat. The statements of witnesses Vishnu Trambak Bhagwat (Police Naik), Akshay Rohokale, Abhishek Avhad show that there was no electricity. Respondent No.2 has also reiterated in her affidavit before this Court that there was no electricity. At the office of village panchayat, further assault took place which in all probabilities would have been the cause of the death of the deceased. There was no electricity and it was a mob of 40 to 50 persons. Under these circumstances, it would be difficult to accept the submissions of learned APP that appellants are responsible for the assault and the death.

16. Informant, eye witness Ramlal and Pravin Bhosle stated that police and the ambulance were called by someone and injured were shifted to the hospital. Informant also stated in her affidavit before this Court in tune with her averments in first information report that appellant Amol called police and thereafter ambulance was also called. There is no reason to discard this possibility. If there was only one family of Pardhi community in the village and there were consistent incidents of theft, then villagers could have taken action against the family of informant. In the wee hours of night and in the darkness,

out of sheer suspension, a mob attacked the victims in which Changdeo lost his life is the *prima facie* impression of this Court. Appellants cannot be denied bail.

17. Appellant Mahadeo is of 65 years. He is not shown to have armed with any specific weapon. His mere presence in hut of the informant would not attract serious offence. Prosecution story appears to be exaggerated one, not only against Mahadeo but against all the appellants.

18. Learned counsel Mr. Khedkar is right in contending that statement of Sangita does not refer to overt act of outraging modesty when incident in question was conveyed to her by informant on telephone. I am inclined to accept the submissions of advocate Mr. Sandip Andhale that names of his client Ganesh and Sandip are not figuring in the first overt act at the place of informant. The voters list does indicate that there are five persons in the village by name Sandip Avhad. At this juncture, no incriminating role can be attributable to appellant Sandip.

19. Appellants are behind bar since last nine months, which is sufficient incarceration. For the reasons stated above, I find substance in their appeals. In my view, Sessions Court

overlooked above aspects of the matter in passing impugned order. The appellants are entitled to succeed in the appeals. I, therefore, pass following order :

ORDER

1. All Criminal Appeals are allowed.
2. Impugned orders rejecting their regular bail passed by learned Special Judge which are under challenge in the appeals are quashed and set aside.
3. Appellant **Mahadeo Kisan Avhad** in Criminal Appeal No.1011 of 2024, appellant **Uddhav Mahadeo Avhad** in Criminal Appeal No.77 of 2025, appellant **Amol Bharat Avhad** in Criminal Appeal No.250 of 2025, appellant **Sandip Pandharinath Avhad** in Criminal Appeal No.1021 of 2024, appellant **Ganesh Ambadas Avhad** in Criminal Appeal No.1023 of 2024 shall be released on bail on furnishing P. R. bond of Rs.30,000/- with one solvent surety each of like amount each in respect of Crime No.542 of 2024, registered with M.I.D.C. Police Station, District Ahmednagar for offences punishable under Sections 189(2),

191(2), 191(3), 190, 103(1), 103(2), 118(1), 118(2), 115(2), 74, 76, 352, 351(2), 324(4) of Bhartiya Nyaya Sanhita, 2023, Sections 3(1)(r), 3(1)(s), 3(2)(va), 3(2)(v), 3(1)(w)(i) of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act and Section 37(1), 37(3), 135 of Mumbai Police Act, on the following conditions :

- (i) Appellants shall co-operate learned Special Judge in disposing criminal trial and also co-operate the Investigating Officer.
- (ii) Appellants shall not tamper or in any way contact informant, her family members or the prosecution witnesses.
- (iii) Appellant Amol Bharat Avhad being Sarpanch of village shall co-ordinate with other appellants and the Investigating Officer for adhering to the conditions imposed by this Court and he shall be responsible for breach of conditions, if there are lapses on his part.

(SHAILESH P. BRAHME, J.)

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