



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

CRIMINAL APPEAL NO.93 OF 2025

Uddesh @ Guddu Sudhir Shinde,
age 24 years, Occ. Labour,
R/o Hirapur, Chalisgaon, Tq. Chalisgaon,
District Jalgaon. Appellant.

VERSUS

1. The State Of Maharashtra
2. Ajay Sanjay Baisane,
age 31 years, Occ. Labour,
R/o Laxmi Nagar, Chalisgaon,
District Jalgaon. Respondents.

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Advocate for Appellant : Mr. N S Ghanekar
APP for Respondents: Mr. V. S. Badakh
Advocate for Respondent no.2 : Mr. S.S. Bora
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CORAM : S. G. CHAPALGAONKAR, J.

Dated : April 28, 2025

ORDER :-

1. Aggrieved by the order dated 11.12.2024 passed by the learned Additional Sessions Judge, Jalgaon, thereby rejecting Criminal Bail Application filed below Exhibit 6 in Special Case No.134 of 2024, the appellant/accused filed this appeal under section 14(A) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 (for short the Act) r/w section 439 of the Criminal Procedure Code.

2. On information given by one Ajay Sanjay Baisane, Crime no.56 of 2024 came to be registered with police station Chalisgaon, District Jalgaon for the offences punishable under section 302, 307, 120-B, 143, 144, 147, 148, 212, 201 r/w section 149 of the Indian Penal Code, section 3/25 of the Indian Arms Act, section 37(1)(3)/135 of the Maharashtra Police Act and section 3(2)(v), 3(2)(va) of the Scheduled Castes and Scheduled tribes (Prevention of Atrocities) Act. It is reported that informant works in the office of councilor Mahindra @ Balu More. Son of Mahendra More i.e. Ankit was attacked by accused persons in November, 2022. Accordingly, offence was registered on the information given by Mahendra More. Mahendra More was under apprehension of attack by accused persons. On 7.2.2024 at about 3 p.m. while the informant was present in the office alongwith Mahendra More, five persons wearing mask entered in the office with fire arm in their hand. They fired bullets towards Mahendra, who sustained grievous injuries on his leg, chest and armpit. The informant dragged Mahendra in rear room. He also suffered injury of bullet on his left arm. Informant was previously acquainted with accused persons. Although their faces were masked, he could identify them. Accordingly, he named five

accused persons as Uddesh @ Guddu Shinde, Sachin Gaikwad, Anis Shaikh, Sam Chavan and Bhupesh Sonawane. Mahendra More succumbed to the attack and breathed last on 10.2.2024 at Medicovert Hospital, Nashik. Eventually, offence was registered against in all five accused persons named in the FIR.

3. Investigation progressed in pursuance of the aforesaid crime. A CCTV footage depicting presence of accused persons was seized during course of investigation. Accused persons were identified. However, it was surfaced during investigation that applicant Uddesh @ Guddu Shinde and Bhupesh Sonawane were not present at the time of incident and they were misidentified. Supplementary statement of the informant was recorded, wherein he explained about incorrect identification and admitted that because of similar built of accused, he has wrongly named the applicant and Bhupesh Sonawane as assailants. Finally, charge-sheet came to be filed against in all nine accused persons including the applicant. Although, applicant is not named as actual assailant, he has been charge-sheeted being a member of conspiracy alongwith other accused persons to commit murder of Mahendra More.

4. In the aforesaid background, applicant is behind bar since the date of his arrest i.e. 18.7.2024. He moved application below Exhibit 6 in Special Atrocities Case No.134 of 2024 for grant of bail. The learned Special Judge rejected his application vide order dated 11.12.2024. Hence, present appeal is filed.

5. Mr. Ghanekar, learned advocate appearing for the applicant submits that applicant has been falsely implicated in the aforesaid crime. Initially, he was named in the FIR, however, lateron as per CCTV footage seized by police, identification of the assailants was made. It is evident that his name was wrongly implicated in FIR with assailants. Mr. Ghanekar would submit that entire thrust of the prosecution to bring home charge of conspiracy against the applicant is on statement of one Akshay Sanjay Khatpe i.e. owner of lodge situated at Pune, who stated that on 11.2.2024 applicant was seen in the company of other accused persons. Similarly, statement of one Satish Male, r/o Mid Bandar Road, Thane, who states that applicant alongwith other accused was residing together in rented accommodation provided by him. According to Mr. Ghanekar, aforesaid circumstances would

never constitute sufficient evidence for bringing home charge of conspiracy against appellant. He would submit that since appellant has been released on bail in previous offence, he has been falsely implicated in present crime for political reasons. The appellant was under taking medical treatment at Chhatrapati Shivaji Maharaj Hospital, Thane at the time of incident. Documents in that regard are annexed alongwith the appeal.

6. Per contra, Learned APP Mr. V.S. Badakh and Mr. S.S. Bora, learned advocate appearing for the respondent no.2 vehemently opposed the prayer for grant of bail. According to them, there is sufficient material to show that appellant conspired together with assailants in commission of offence. He was seen before and after incident in the company of assailants. The vehicle purchased by him was used by the assailants. Mr. Bora learned advocate appearing for respondent no.2 points out that appellant is a habitual offender. As many as five serious offences have been registered against him for which no explanation is given in the application or appeal memo. Release of the appellant may hamper the smooth trial.

7. Having considered the submissions advanced, it can be observed that, although appellant was named in the FIR, CCTV footage, which is part of the charge-sheet and supplementary statement of the informant clearly reveals that he was wrongly identified as assailant. Appellant is charge-sheeted alleging him to be conspirator of the offence. Thrust of the prosecution is on three circumstances. Firstly – appellant is an accused in previous crime, which was registered on information given by the victim; secondly, on 11.2.2024 he was seen in the company of assailants at lodge in Pune and thirdly, prior to the incident he resided with assailants in a rented premises owned by Satish Suresh Male at Mid Bandar Road, Thane and lastly Santa Pahelwan has financed for the car, which was alleged to be used by accused persons at the time of assault.

8. The careful analysis of the aforesaid circumstances would show that there is nothing to infer that prior to incident, appellant had conspired together or participated in design of commission of murder. There is nothing to show that the applicant alongwith other accused persons had an agreement to commit an offence and, therefore, prima facie, it is difficult

to find out sufficient material to prosecute the appellant for alleged offences. Statement of witness Akshay Khatpe simply suggests that appellant was seen in the company of assailants after four days of the incident i.e. on 11.2.2024. Therefore, meeting of the appellant with accused persons after commission of offence would not bring home the charge of conspiracy. Similarly, statement of Satish Mali that the assailant and appellant were residing in a rented room provided by him since November, 2023 till February, 2024 cannot be stretched to the extent of involvement of appellant in the conspiracy. Even, statement of Ram Namdev Chavan recorded on 27.3.2024 merely suggests that appellant met the accused persons sometime on 16.2.2024. Even from this statement, agreement to conspiracy cannot be inferred. No specific acts of appellant/accused are discernible from the entire charge-sheet to hold him conspirator.

9. Although, it is submitted on behalf of the respondent that there are criminal antecedents i.e. five offences are registered against the appellant, that itself would not be a ground to deny bail, particularly, when evidence in the present charge-sheet is bereft to make out prima facie case

depicting involvement of appellant in commission of offence. The appellant is behind bar since 18.7.2024 i.e. for more than 10 months. His further detention would not be necessary. The learned Sessions Judge has simply observed that because there was previous rivalry between the syndicate of the appellant and group lead by victim Mahendra, possibility cannot be ruled out, appellant may get involved in criminal activities after his release. Such a reason for rejection of bail cannot be countenanced. The learned Sessions Judge has not discussed about any positive evidence that would bring home charge of conspiracy against the appellant.

10. In that view of the matter, the impugned order dated 11.12.2024 is not sustainable in law and the appellant deserves to be enlarged on bail by putting certain conditions that would take care and interest of the prosecution. In the result, following order is passed.

O R D E R

- i. Criminal appeal is hereby **allowed**.
- ii. The impugned order dated 11.12.2024 passed by the learned Additional Sessions Judge, Jalgaon, below Exhibit 6 in Special Case No.134 of 2024 is hereby quashed and set aside.

- iii. The appellant - Uddesh @ Guddu Sudhir Shinde be released on bail on furnishing P.B. and S.B. of Rs.50,000/- (Rs. Fifty Thousand) Each in connection with Crime no.56 of 2024 registered with City Police station Chalisgaon, Tq. Chalisgaon, District Jalgaon for the offence punishable under sections 302, 307, 120-B, 143, 144, 147, 148, 212, 201 r/w section 149 of the Indian Penal Code, section 3/25 of the Indian Arms Act, section 37(1)(3)/135 of the Maharashtra Police Act and section 3(2)(v), 3(2)(va) of the Scheduled Castes and Scheduled tribes (Prevention of Atrocities) Act on the following conditions :-
- a. The appellant shall not tamper with the prosecution evidence in any manner.
 - b. The appellant shall attend each and every date of trial before the Special Court unless specifically exempted by the Special Court.
 - c. The appellant shall not enter in Chalisgaon for a period of six months from the date of this order.
- iv. Criminal appeal stands **disposed of**. Bail before the Trial Court.

(S. G. CHAPALGAONKAR)
Judge.

Aaa/-

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