



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

CRIMINAL APPEAL NO.109 OF 2025

Aadhil Dastgir Khatik,
Age 26 years, Occu. Labour,
R/o Gavali Wada,
Tq. Bhusawal, Dist. Jalgaon.

... **Appellant.**

Versus

1. State of Maharashtra,
At the instance of Bhusawal City
Police Station, Jalgaon.

2. Sangram Dilip Jonwal,
Age 24 years, Occu. Business,
R/o Mahatma Phule Nagar,
Tq. Bhusawal, Dist. Jalgaon.

... **Respondents.**

...
Advocate for Appellant : Mr. Abhaysinh K. Bhosle.
APP for Respondent/s-State : Mrs. Ashlesha S. Deshmukh.
Advocate for Respondent No.2 : Mr. Gandle Mahendra P
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CORAM : SHAILESH P BRAHME, J.
DATE : 16.04.2025

ORDER :-

1. Heard finally by consent of the parties.
2. This appeal is directed against order of rejection of regular bail in Crime No.225 of 2023, registered with Bhusawal City Police Station, District Jalgaon for offences punishable under Sections 302, 201 read with Section 34 of the Indian Penal Code and Section 3(1)(v), 3(2)(va) of the

Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act.

3. Respondent No.2 lodged report against appellant and Sajid Shagir Khatik that his father Dilip was found injured in pool of blood on 25.10.2023, at 1.05 a.m. and he was informed that the accused persons who assaulted him were found running away from the spot. Co-accused Sajid was holding iron pipe in his hand. It's prosecution theory that motive to eliminate deceased was that deceased along with others had killed appellant's father and lateron they were acquitted from the offence on 25.11.2003.

4. Learned counsel for the appellant submits that appellant was arrested on 04.01.2024 and charge sheet was filed on 22.01.2024. It is further submitted that in fact appellant was attacked and he was treated in Dr. Bhangale Surgical and Nursing Home with a reference of MLC No.133. But, his complaint was not registered. Co-accused was armed with iron rod and considering post mortem report, nothing was attributable to the appellant. It is submitted that there is no direct evidence against the appellant. The witnesses Chhaya Mahadev Bonde and Jitendra Kisan Patil are not the eye witnesses identifying the appellant. It is submitted that in all

probabilities, co-accused might have attacked the deceased in retaliation or the self defence.

5. Learned APP tenders on record the papers of investigation. She would submit that the statements of Chhaya, Jitendra and Vijay disclose the incriminating role of the appellant. It is submitted that there was strong motive to commit murder due to rivalry. There are multiple injuries found on the person of the deceased which are serious and brutal in nature.

6. Learned counsel for respondent No.2 submits that inquest panchnama shows head injury and fracture to the skull. The appellant has destroyed the evidence. The appellant was unable to explain the injuries. He would contend that no case is made out to grant bail.

7. I have considered rival submissions of the parties. There is no eye witness to identify the appellant and the co-accused causing attack on the deceased. The statements of Chhaya, Jitendra and Vijay do not disclose that present appellant was seen committing overt act. Co-accused was armed with iron rod. The medical evidence disclosed injuries on head. At the

most, it can be said that appellant was with co-accused who caused fatal blows on the deceased.

8. Appellant is behind bar since 04.01.2024. Further incarceration is not necessary. Merely presence of motive would not be an impediment to enlarge the appellant on bail.

9. I am of the considered view that learned Sessions Judge has come to erroneous conclusion in rejecting the bail application. Impugned order is liable to be quashed and set aside. I, therefore, pass following order :

ORDER

1. Criminal Appeal is allowed.
2. Impugned order is quashed and set aside.
3. The appellant shall be released on bail on furnishing P. R. bond of Rs.50,000/- with one solvent surety of like amount in respect of Crime No.225 of 2023 registered with Bhusawal City Police Station, District Jalgaon for offences punishable under Sections 302, 201 read with Section 34 of the Indian Penal Code and Section 3(1)(v), 3(2)(va) of the Scheduled Castes and the

Scheduled Tribes (Prevention of Atrocities) Act,
on the following conditions :

- (i) Appellant shall not pressurize the prosecution witnesses or tamper the evidence.
- (ii) Appellant shall stay away from Bhusawal Taluka for the period of twelve (12) months, save and except for attending the trial.
- (iii) Appellant shall submit whereabouts, address and phone numbers to the Investigating Officer.

(SHAILESH P. BRAHME, J.)

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vmk/-