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

CRIMINAL APPEAL NO.142 OF 2025

Rahul s/o Goraksh Sable,
Age: 32 years, Occ. Nil,
R/o. Randhe, Tq. Parner,
Dist. Ahmednagar

....APPELLANT

VERSUS

1. The State of Maharashtra,
thr. its Investigation Officer,
Parner Police Station, Tq. Parner,
Dist. Ahmednagar

2. Santosh s/o Kachru Ubale,
Age: 43 years, Occ. Agri.,
R/o Vadzire, Tq. Parner,
Dist. Ahmednagar

....RESPONDENTS

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Mr N. B. Narwade, Advocate for Appellant

Mr S. B. Jadhav, APP for Respondent No.1/State

Mr Abid R. Shaikh, Advocate (appointed) for Respondent No.2

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**CORAM : SUSHIL M. GHODESWAR, J.
RESERVED ON : 24 SEPTEMBER 2025
PRONOUNCED ON : 30 SEPTEMBER 2025**

ORDER :

1. By this criminal appeal, the appellant prays for quashing and setting aside the order dated 17/02/2025 passed below Exhibit 101 in Special Case No.123/2020 by the learned Additional Sessions Judge, Ahmednagar, whereby his application for grant of regular bail

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in connection with C.R. No.116/2020 registered on 18/02/2020 with Parner Police Station, Tq. Parner, Dist. Ahmednagar for offences punishable under Sections 302, 504, 212, 120(B) read with Section 34 of the Indian Penal Code; under Section 3(1)(r), 3(1)(s), 3(2)(v) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989; under Section 3/25 of the Arms Act and under Section 37(1)(3)/135 of the Bombay Police Act, was rejected. He also prays for releasing him on regular bail in the said crime.

2. As per the First Information Report filed on 18/02/2020 by respondent No.2 Santosh Kachru Ubale, sister in law of the informant Santosh had married to one Sunil Gaikwad 12 years ago, however, she is staying separately from her husband Sunil with her two daughters, namely, Asmita and Shreya. Prior to two years of the incident, appellant Rahul had tried to abduct daughter of Savita namely, Asmita, and therefore informant and his relatives filed report against him at Parner Police Station. In the said crime he was released on bail. Thereafter, when Asmita attained 18 years of age, again the appellant had eloped with her and had performed marriage at Alandi, Tq. Khed, Dist. Pune. At that time, informant and his relatives lodged missing report of Asmita against the appellant. Further, after performing marriage appellant and Asmita returned home and that

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missing complaint was withdrawn. However, the report discloses that the appellant was thereafter, again and again following Asmita and parents of Asmita were not allowing her to meet him. On 17/02/2020 in the evening at 9:30 p.m., when Savita, after having dinner, was talking with the informant, the appellant came on motorcycle. He was carrying Pistol and he abused them. He then fired two gun shots towards Savita, due to which Savita fell down and appellant fled away from the spot. In view of the gun shot injury, Savita succumbed to death and therefore, the informant lodged the report.

3. Learned Advocate for the appellant submits that since the incident is of 2020 and till date, no progress took place in trial, the appellant has approached this Court with a request to release him on bail. He is behind bars since 2020.

4. Learned APP for respondent No.1/State as well as learned Advocate for respondent No.2/ informant strongly opposed the appeal. They submitted that if the appellant is released on bail, he will flee and will not be available for trial. They, therefore, prayed for dismissal of the appeal.

5. Heard learned Advocate for the appellant, learned APP for respondent No.1/State and learned Advocate (appointed) for

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respondent No.2. With their assistance, I have perused the material available on record. On the last date of hearing, the report was called as regards progress of the trial. Today, the learned APP submitted that it may take another period of six months to conclude the trial as many witnesses are to be examined. Though this is a case of 2020 and period of 5 years have been passed, still the appellant is behind bars. *Prima facie*, there appears to be strong prosecution case against the appellant and the direct evidence of firing of two gun shots towards deceased is available on record. The ballistic report has also been received. However, for long pending trial, the appellant cannot be kept behind bars. He has been inside jail for more than five years. The law on this point is well settled that long incarceration of accused during the pendency of trial, is not permissible and as such, the accused is, therefore, required to be released from the jail. The Hon'ble Apex Court in **Javed Gulam Nabi Shaikh Vs. State of Maharashtra and others, (2024) 9 SCC 813**, decided on 03/07/2024 observed that bail is not to be withheld as a punishment.

6. Though learned APP for the respondent/State and learned Advocate for respondent No.2 strongly opposed grant of bail, however, it appears that there is no possibility that trial shall be concluded in few

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months. The accused is to be considered innocent unless and until he is proved guilty by the Court of law. Though there is strong evidence available on record warranting conviction of the appellant, however, five years period has been passed, still there is no progress in the trial. On this sole ground of delay in trial, the instant appeal for grant of regular bail needs to be allowed. However, apprehension of the learned APP and learned counsel for respondent No.2 can be taken into consideration while releasing the appellant on bail by putting strict conditions on the appellant. Since the appellant is in jail since 2020 and there is no likelihood of conclusion of trial in near future, the appellant deserves to be granted bail. Hence, I pass the following order :-

ORDER

- (I) The present criminal appeal is allowed.
- (II) The order dated 17/02/2025 passed below Exhibit 101 in Special Case No.123/2020 by the learned Additional Sessions Judge, Ahmednagar, is hereby quashed and set aside.
- (III) Appellant Rahul s/o Goraksh Sable shall be released on bail in connection with C.R. No.116/2020, registered on 18/02/2020 with

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Parner Police Station, Tq. Parner, Dist. Ahmednagar for offences punishable under Sections 302, 504, 212, 120(B) read with Section 34 of the Indian Penal Code; under Section 3(1)(r), 3(1)(s), 3(2)(v) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989; under Section 3/25 of the Arms Act and under Section 37(1)(3)/135 of the Bombay Police Act, on furnishing PR bond of Rs.25,000/- with one solvent surety/ security in the like amount.

(IV) Appellant shall not influence or contact with any witnesses or informant and not to interfere with the evidence of the prosecution.

(V) Appellant shall cooperate with the trial Court and he shall attend each and every date, unless exempted by the trial Court.

(VI) Appellant shall place on record of the trial Court the details of his contract number and residential address with updates in case of any change.

(VII) Appellant shall attend the concerned police station and report to Police Station Officer or his subordinate officer in every week i.e. on every Monday at 11:00 a.m. till the conclusion of trial.

(VIII) Appellant shall not commit any crime during his bail period.

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7. It is made clear that, in case of violation of any of the aforesaid conditions, the bail granted to the appellant shall be liable to be cancelled.

8. Since learned Advocate for respondent No.2 is appointed through High Court Legal Aid Services, Sub Committee, Aurangabad, his fees shall be calculated and paid to him as per rules.

9. It is also clarified that the observations made in this order are *prima facie* in nature for the purpose of adjudication of this appeal.

[SUSHIL M. GHODESWAR, J.]

sjk