



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPEAL NO.148 OF 2025

Bapu @ Bapusaheb S/o Yashwant Tagad,
Age 38 years, Occu. Agri.,
R/o Shillegaon, Tq. Rahuri,
Ahmednagar.

... Appellant.

Versus

1. State of Maharashtra,
Through the Police Inspector,
Rahuri Police Station,
Tq. Rahuri, District Ahmednagar.

2. Tukaram Annasaheb Jadhav,
Age 45 years, Occu. Agri.,
R/o Near Sub Station, Aaradgaon,
Tq. Rahuri, District Ahmednagar.

... Respondents.

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Advocate for Appellant : Mr. V. S. Wakale.
APP for Respondent/s-State : Mr. K. K. Naik.
Advocate for Respondent No.2 : Mr. Jitendra S. Jain.
(Appointed).

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CORAM : SHAILESH P. BRAHME, J.
DATE : 24.04.2025

ORDER :-

1. Heard both sides.
2. Appellant is assailing judgment and order dated 12.11.2024 passed by Additional Sessions Judge, Ahmednagar below Exh.4 in Special Case No.205 of 2024, rejecting application for regular bail. Appellant is behind bars since

16.05.2024 in Crime No.581 of 2024 registered with Rahuri Police Station, District Ahmednagar for the offence punishable under Section 302, 201 read with 34 of the IPC and Section 3(2)(va) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act.

3. Respondent No.2 lodged a report on 15.05.2024 that his younger brother Vijay @ Pappu Annasaheb Jadhav had left home on 14.05.2024 and it was reported by one of the witnesses that he was seen to have been assaulted by co-accused and appellant. A search was conducted, but he was not found. On the next date, a missing complaint was given by his wife. Thereafter, it was informed that his dead body was found in river having injuries. It is alleged that he was being assaulted by appellant and others. Investigation was conducted and charge sheet was filed on 13.08.2024.

4. Learned counsel for the appellant submits that there is absolutely no material against appellant. He is falsely implicated in the offence. Entire prosecution story is suspicious. It is not understood as to why immediately on 14.05.2024 only report was not lodged. The statement of so called eye witness is inconsistent. The statement and conduct of informant and wife of deceased is doubtful. It is submitted

that memorandum panchanama conducted at the instance of co-accused Rahul is inadmissible. It is further submitted that no incriminating role is attributable to the appellant. As against that other co-accused are the main perpetrators. It is further submitted that there are in all 45 witnesses and it would take long time to conclude the trial.

5. Appeal is contested by both respondents. Learned APP relies on affidavit-in-reply. He would submit that statement of eye witnesses Arun Pawar, memorandum under Section 27 and post mortem report are consistently indicating serious and incriminating role of the appellant. There is clinching material on record that deceased was brutally assaulted on various parts of the body. His hands and legs were tied and then he was thrown in the well. This is not a fit case for enlarging the appellant on bail.

6. Learned counsel appearing for respondent No.2 adopts the submission of learned APP. It is vehemently submitted that appellant is stated to have been present and actively participated in commission of offence.

7. I have considered rival submissions of the parties. I have gone through relevant papers of investigation. Investigation

papers show that memorandum under Section 27 was recorded at the instance of co-accused Rahul Jagdhane to show spot of the incident where the deceased was taken on the motorcycle of the appellant and then he was assaulted. Another memorandum under Section 27 was recorded at the instance of appellant for recovery of two wheeler of the appellant. The incriminating portion of both memorandum may not have probative value. Learned counsel for the appellant is right in submitting that merely on the basis of those memorandum, appellant cannot be denied bail. But for the limited purpose those can be relied on at this stage of the proceeding.

8. The clinching material is the statement of Mr. Arun Pawar who has elaborately stated that he was present near the spot of the incident having his meals and he witnessed the entire assault. The deceased was brought to the spot of the incident. His hands and legs were tied. Three accused persons including appellant were abusing, assaulting him. Co-accused Digambar assaulted him by wooden stick. Though his statement was recorded on 23.05.2024, it needs to be relied upon because he has given explanation for not disclosing it to anybody immediately. Apparently, there is no reason to discard the statement.

9. The statement of the eye witness is in tune of first information report and statements of wife of the deceased, mother of deceased and other witnesses. They are corroborating each other. The spot panchnama and the inquest panchnama corroborate the prosecution story. The hands and legs of the deceased were tied when the dead body was recovered from the well. Appellant's motorcycle is also recovered at his instance. The papers show involvement of the appellant.

10. Learned APP has rightly drawn my attention to the Post Mortem report. In column No.17, thirteen (13) injuries are mentioned on the vital part of the body. Column No.19 shows fracture to the skull. The cause of death is the head injury. At this stage medical evidence is corroborating the prosecution story. Learned counsel for the appellant is unable to explain the presence of the appellant with co-accused at the relevant time. His hands and legs were tied and thereafter, he was thrown in well. Considering the nature of injuries and statements of witnesses, there is *prima facie* case that deceased was brutally assaulted by the accused. I find that learned Sessions Judge has rightly exercised the jurisdiction in

rejecting application for bail. Hence, I am not inclined to enlarge the appellant on bail.

11. Criminal appeal stands dismissed.

12. Learned counsel Mr. Jitendra S. Jain appointed by this Court for respondent No.2 shall be quantified fees of Rs.5,000/-.

(SHAILESH P. BRAHME, J.)

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vmk/-