



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

Criminal Appeal No. 169 Of 2025

Tofik Rafik Shaikh

Age : 21 years, Occupation - Business,

R/o : Oppo. Ratnakamal Mangal Karyalaya,
Shrigonda, Tq. Shrigonda, Dist. Ahmednagar.

.. Appellant

Versus

1. The State of Maharashtra,
Through Police Station Officer,
Shrigonda Police Station,
Tq. Shrigonda, Dist. Ahmednagar.

2. Alka Ram Sasane,
Age : 45 years, Occupation - Agri,
R/o : Sasane Nagar, Tq. Shrigonda,
Dist. Ahmednagar.

.. Respondents

WITH

Criminal Appeal No. 181 Of 2025

Sahil Hanif Sayyad

Age : 25 years, Occupation - Business,

R/o : Near Collector Officer,
Ahmednagar, Tq. Nagar, Dist. Ahmednagar.

.. Appellant

Versus

1. The State of Maharashtra,
Through Police Station Officer,
Shrigonda Police Station,
Tq. Shrigonda, Dist. Ahmednagar.

2. Alka Ram Sasane,
Age : 45 years, Occupation - Agri,
R/o : Sasane Nagar, Tq. Shrigonda,
Dist. Ahmednagar.

.. Respondents

WITH

Criminal Appeal No. 183 Of 2025

Mubarak Shabuddin Shaikh

Age : 45 years, Occupation - Agri,

R/o : Kothimbire Mala, Tq. Shrigonda,

Dist. Ahmednagar.

.. Appellant

Versus

1. The State of Maharashtra,
Through Police Station Officer,
Shrigonda Police Station,
Tq. Shrigonda, Dist. Ahmednagar.

2. Alka Ram Sasane,
Age : 45 years, Occupation - Agri,
R/o : Sasane Nagar, Tq. Shrigonda,
Dist. Ahmednagar.

.. Respondents

WITH

Criminal Appeal No. 184 Of 2025

1. Amin @ Aman Akbar Shaikh,
Age : 22 years, Occupation : Agri,
2. Akbar Nasir Shaikh,
Age : 44 years, Occupation : Agri,
3. Nisar Yusuf Patel @ Shaikh,
Age : 37 years, Occupation : Agri,

R/o : Kothimbire Mala, Tq. Shrigonda,

Dist. Ahmednagar.

.. Appellants

Versus

1. The State of Maharashtra,
Through Police Station Officer,
Shrigonda Police Station,
Tq. Shrigonda, Dist. Ahmednagar.
2. Alka Ram Sasane,
Age : 45 years, Occupation - Agri,
R/o : Sasane Nagar, Tq. Shrigonda,
Dist. Ahmednagar.

.. Respondents

- * **Mr. Rahul R. Karpe**
Advocate for the Appellants in all matters.
- * **Mrs. Chaitali Chaudhari Kutti**
APP for Respondent No.1/State in all matters.
- * **Ms. Karishma Sarin**
Advocate for Respondent No.2 in all matters
(Appointed by this Court).

CORAM : SHAILESH P. BRAHME, J.

DATE OF RESERVING THE ORDER : 9th APRIL 2025

DATE OF PRONOUNCING THE ORDER : 16th APRIL 2025

FINAL ORDER :

. These appeals are preferred by accused persons who are facing prosecution in S.C.C. No.1414/2024. Crime No.976/2024 was registered with Shrigonda Police Station on 03.11.2024 for offences punishable under Section 194(2) of the Bhartiya Nyaya Sanhita, 2023 and Sections 37(1) and 37(3) of the Maharashtra Police Act 1951. Later on offence punishable under Sections 103, 125, 125(A)(B), 189(2), 191(2) of Bhartiya Nyaya Sanhita, 2023 and Sections 3(2)(v), 3(2)(va), 3(1)(r)(s) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act are added.

2. On 02.12.2024 information was received that two groups were quarreling at Sasane Nagar, Shrigonda, Taluka Shrigonda on account of driving vehicle rashly on the road and fire crackers. The Appellants

namely Taufik and Nisar were not figuring in the report, but rest of the Appellants were there. The spot panchanama was conducted and nothing objectionable was recovered. Thereafter it was found that Ram Shankar Sasane was injured and succumbed to death on 17.11.2024. Charge-sheet was filed on 31.12.2024. Appellants – Taufik and Nisar were also not figuring in the charge-sheet. Nobody from family of the deceased or his friend came forward making any allegations against the Appellants.

3. Learned Counsel for the Appellants Mr. Karpe submits that there was nothing against the Appellants when the charge-sheet was filed. Thereafter due to death of Ram Shankar Sasane which is not connected with the incident of 02.11.2024, re-investigation was started in the matter. Without securing the approval of the Special Judge, Investigating Officer proceeded to conduct further investigation. Belatedly on 15.01.2025, permission for further investigation was granted by the Judicial Magistrate First Class, Shrigonda. It is submitted that there are no allegations or incriminating material against the Appellants. The investigation is being conducted against statutory procedure. The Appellants are entitled to pre-arrest bail on the ground of parity because co-accused Feroz, Mansoor and Ateeq have been granted protection.

4. Learned Counsel for the Appellants submits that they did not contribute anything for the medication of the deceased. The version of so called eye-witnesses are doubtful because when charge-sheet was

filed, they did not come forward. It is submitted that the incident alleged against the Appellants is afterthought and fictitious. The material collected in the charge-sheet does not show occurrence of any such offence. It is further pointed out that surprisingly on 17.12.2024, accidental death was registered. Learned Counsel would point out from the impugned order that all the observations are in favour of the Appellants but still the pre-arrest protection was refused just to give opportunity to the Investigating Officer to collect the evidence, is perverse and arbitrary.

5. Per contra, learned APP tenders on record original papers of the investigation and opposes the submission of the Appellants vehemently. It is submitted that although charge-sheet was filed on 31.12.2024, permission was solicited and granted for further investigation on 15.01.2025. There are five eye-witnesses to disclose overtact of the Appellants. Few of them are injured witnesses. Their injury certificates and the postmortem report corroborate the prosecution story. A pendrive was recovered during the investigation disclosing incriminating role of the Appellants in killing Ram Shankar Sasane. The custodial interrogation is necessary as further investigation is in progress. Additionally the antecedents of the Appellants are pressed into service. It is submitted that mobile and vehicle are yet to be recovered.

6. Learned Counsel Ms. Karishma Sarin for the Respondent No.2 adopts the submissions of learned APP. Additionally she would submit that wife of the deceased submitted affidavit on 25.11.2024,

disclosing the role of the Appellants in the alleged incident. It is contended that serious offence has been committed and the Appellants have pressurized wife and family members of the deceased.

7. In First Information Report lodged on 03.11.2024, offence of affray was mentioned. But later on Section Sections 103, 125, 125(A) (B), 189(2), 191(2) of Bhartiya Nyaya Sanhita, 2023 and Sections 3(2) (v), 3(2)(va), 3(1)(r)(s) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) came to be added. On 02.11.2024, Appellants with other co-accused are alleged to have involved in pelting of the stones and bricks on group of the deceased who were belonging to the members of scheduled caste. They are alleged to have been abused on the caste. Many of them were injured. It was riot between Muslim and scheduled caste people. After about 15 days, Ram Shankar Sasane who sustained injuries on his head, succumbed due to head injury.

8. The spot panchnama was conducted immediately on 03.11.2024. But nothing objectionable was recovered. The statements were also recorded. Neither widow of the deceased or his family members came forward to state anything against the Appellants. Charge-sheet was filed on 31.12.2024. Application was submitted by Investigating Officer on 05.01.2025, informing that addition of the few offences. But the application was not either granted or rejected, only order of 'seen' was passed. Later on another application was submitted on 15.01.2025 by the Investigating Officer, stating that the deceased was found to

have been injured and later on died and Section 103 was added. By order dated 15.01.2025, the Judicial Magistrate First Class granted permission for further investigation. If the additional offences under provision of Prevention of Atrocities Act were added and reported on 15.01.2025. It is impermissible to proceed with investigation prior to 15.01.2025.

9. No timely steps were taken by the Investigating Officer to approach the competent Court to solicit permission for further investigation. Deceased was injured on 02.11.2024 and he was immediately taken to the Hospital. Statement of Dr. Prasant Jadhav, of Pacific Hospital shows that deceased was brought to his Hospital on 03.11.2024 in injured condition having sutured wound on his head. It is not understood as to why the steps were not taken to discover the truth regarding assault. Inaction from 03.11.2024 till 15.11.2024 creates doubt about the prosecution theory. It reveals from record that three Investigating Officers conducted the investigation without there being any coordination. It was offences under Sections 194(2), 189(2) or 191(2) of Bhartiya Nyaya Sanhita, 2023 in between two groups, damaging few vehicles and also causing injuries on the number of persons, the spot inspection dated 03.11.2024, should have corroborated the theory.

10. Another surprising fact is that the injured witnesses were taken to Rural Hospital for the treatment on 02.11.2024. They were being treated and injury certificates were also issued. It is conundrum as to why the Investigating Officer did not investigate into the cause of

assault and hurriedly filed charge-sheet on 31.12.2024 without even doubting anybody when there was sufficient clue available with him. This has created serious doubt on the prosecution theory and the manner in which further investigation has commenced. I have my reservation for the manner in which the re-investigation has been conducted.

11. I have gone through the spot inspection which was conducted on 09.01.2025, wherein bricks' pieces were found, surprisingly after one month and 20 days, which is difficult to be believe. The statements of Omkar, Rohan, Sandeep, Ganesh and Vicky indicate that group of Sasane was being abused on caste in chorus by number of accused including Appellants which is improbable. No specific role has been attributed to the Appellants. The allegations are vague. Few of the statements were recorded before granting permission for further investigation. This creates doubt about the real incident in question.

12. The statements of injured witnesses and postmortem notes showing various injuries on the body of the deceased are not sufficient to connect the Appellants to the assault in question. The Investigating Agency has recovered a pendrive wherein the Appellants are found to be involved, but that is not sufficient to deny pre-arrest protection.

13. I have gone through the criminal antecedents against the Appellants namely Amin, Sahil and Mubarak. A care can be taken by imposing necessary conditions for granting them pre-arrest protection.

Considering material placed on record and the overall circumstances of the matter, the finding recorded by the learned Judge that for granting opportunity to the Investigating Officer, application was required to be rejected, is unsustainable. All appeals deserve to be allowed. Hence I pass following order :

ORDER

(a) Criminal Appeals are allowed by quashing and setting aside orders of the Sessions Court passed on 01.03.2025.

(b) Appellants – Tofik in Criminal Appeal No.169/2025; Sahil in Criminal Appeal No.181/2025; Mubarak in Criminal Appeal No.183/2025 and Amin; Akbar and Nisar in Criminal Appeal No.184/2025 shall be released on bail in the event of their arrest in furtherance of Crime No.976/2024 or SCC No.1414/2024 on furnishing bond of Rs.50,000/- with one solvent surety for each of them on following conditions :

(i) Appellants shall cooperate the Investigating Agency and attend Shrigonda Police Station on every Tuesday and Saturday between 11:00 am. to 04:00 pm.

(ii) Appellants shall stay away from Shrigonda and inform their whereabouts to the Investigating Officer and shall not enter concerned Taluka, save and except for reporting the police station.

(iii) Appellants shall not pressurize the prosecution witnesses or the victim in anyway.

(c) Advocate Ms. Karishma Sarin is quantified fees of Rs.5000/- for rendering assistance to the Court.

**SHAILESH P. BRAHME
JUDGE**

Nayesh