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20-APEAL-269-2025

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

20 CRIMINAL APPEAL NO. 269 OF 2025

Datta Mohan Shelar

...Appellant

VERSUS

1. The State Of Maharashtra

2. Amol s/o. Mahajan Kale

...Respondents

WITH

CRIMINAL APPEAL NO. 243 OF 2025

Vitthal Mohan Shelar

...Appellant

Versus

1. The State of Maharashtra

2. Amol Mahajan Kale

...Respondents

WITH

CRIMINAL APPEAL NO. 410 OF 2025

Gautam s/o. Balbhim Mohite

...Appellant

Versus

1. The State of Maharashtra

2. Amol s/o. Mahajan Kale

...Respondents

...

Mr. Bhushan V. Virdhe, Advocate for Appellant in Appeal/269/2025.

Mr. S. Y. Mahajan, Advocate for Appellant in Appeal/410/2025.

Mr. Satej S. Jadhav, Advocate for Appellant in Appeal/243/2025.

Smt. M. N. Ghanekar, APP for Respondent-State.

Ms. Pooja K. Apache, Advocate appointed for Respondent No.2.

CORAM : KISHORE C. SANT, J.

DATE : 16th JULY 2025

PC :-

1. Since Ms. Apache, the learned Advocate is already appointed for Respondent No.2 in Criminal Appeal No.243/2025, she is requested to assist the Court even in two other connected appeals, which she graciously accepted.

2. Heard the learned Advocates for the Appellant, learned APP for Respondent-State and learned Advocate appointed for the Respondent No.2.

3. All these appeals are arising out of the order 25th March 2025, passed by the learned Additional Sessions Judge, Bhoom, in Special Case (ATRO) No. 09 of 2025 rejecting the application for regular bail. The said prosecution is lodged on the basis of FIR No.0262/2024 dated 26th November 2024, registered with Bhoom Police Station Dist. Osmanabad, for offences punishable under Sections 103(1), 189(2), 189(4), 190 of the Bhartiya Nyaya Sanhita and Sections 3(1)(r), 3(1)(s), 3(2)(va), 3(2)(v) of the Schedule Caste and Schedule Tribes (Prevention of Atrocities) Act, 1989 (hereinafter referred to as "Atrocities Act").

4. It is stated in the FIR that the informant resides in Khatalvasti at village Walwad. His paternal uncle Bhausahab Kale, also resides as a neighbour. The accused Datta Mohite and his brother Audumber Mohite wanted to purchase the land belonging to the informant. Because of this, they used to threaten the informant and his uncle. The accused Gautam excavated some murum from the land of informant. The informant and his uncle, therefore, asked Gautam as to why he excavated the murum from the land. It is alleged that on that, the accused persons abused and threatened the informant and his uncle. On 26th November 2024, he received a call from his maternal aunt Ashabai informing him that on 25th November 2024, at around 08:00 p.m., Bhausahab, the deceased (uncle of the informant), was beaten up by some villagers. She asked him to go and see as to what happened. On going there, he came to know that the present appellants assaulted his uncle with stone, wooden stick and iron rod. The present appellants were arrested on 26th November 2024 and since then, they are in jail. Out of four accused persons, only three have approached this Court as their applications for regular bail came to be rejected by the learned Sessions Judge.

5. Learned Advocate for the appellants argued that there is no material to link the appellants with the offence. There is no independent eye-witness to the incident. No witness has made any specific allegations against the present appellants. The statements were recorded in the month of November 2024. The supplementary statement of Sachin came to be recorded on 15th February 2025. Supplementary statements of other witnesses have been recorded even after that. Taking the statements as it is, in every statements whatever is stated is clearly on the basis of hearsay information. There is no witness who has seen the actual incident. In the FIR, there is no allegation that the deceased was abused in the name of caste by any of the accused persons. There are other statements showing that the deceased was found in the village trying to commit theft and it is on that, he was apprehended and assaulted by some of the persons in the village and in that incident, he died. The only eye-witness that can be said is Sangita who stated that in the night ours, the deceased was found in suspicious condition, and therefore, he was accosted and, thereafter, assaulted by the people. No ingredients of offence under the Atrocities Act are made out. It is thus

prayed that the appeals be allowed.

6. Learned APP vehemently opposed the appeals. She submits that it is a serious offence. The deceased died because of the assault by many people. The manner in which the deceased was beaten shows the intensity. If the accused are released on bail, there will be a terror situation in the village. She prays for rejection of the appeals.

7. The learned Advocate for the Respondent No.2 in all the appeals vehemently opposed the appeals. She submits that the offence is of a serious nature. The deceased was beaten up by iron rod and by wooden plank. There is clear allegation against accused Gautam. Statements show his involvement in the offence. She thus prays for rejection of the appeals.

8. This Court has gone through the statements of Sachin dated 26th November 2024. From the Statements of Sachin, Sudhakar and Satish, it is seen that these are the persons who helped the deceased and took him to the hospital. As pointed out, the supplementary statements are recorded after two months after the FIR. Even statement of Sachin is

recorded under Section 183 of BNS on 24th January 2025. On going through the charge-sheet and the statements in the charge-sheet, it is seen that there is no direct allegation against any of the appellants before this Court. All the statements show that they received information from some other persons i.e. hearsay. Except for the CDR report, nothing is found on record. There is no sufficient material to show direct involvement of any of the accused persons. Prima facie it does appear that the statements are not sufficient, even if they are taken as it is, to prove the case. The alleged weapons are already seized by the police from the spot. The investigation is already over and charge is also framed long back. Considering all these, this Court is of the opinion that a case is made out to release the appellants on bail. Hence, the following order:-

ORDER

- (i) Criminal Appeals stand allowed.
- (ii) The impugned order dated 20th March 2025 and 25th March 2025 passed by Additional Sessions Judge, Bhoom, in Special Case (ATRO) No. 09 of 2025 rejecting application for

regular bail is quashed and set aside.

(iii) The appellants be released on bail in connection with C.R. No. 262 of 2024 registered with Bhoom Police Station, for offences punishable under Sections 103(1), 189(2), 189(4), 190 of the Bhartiya Nyaya Sanhita and Sections 3(1)(r), 3(1)(s), 3(2)(va), 3(2)(v) of the Schedule Caste and Schedule Tribes (Prevention of Atrocities) Act, 1989, on furnishing P. R. Bond in the sum of Rs.25,000/- each, with one solvent surety/security in the like amount.

(iv) The appellants shall attend the concerned police station as and when called for and co-operate with the investigation.

(v) The appellants shall not tamper with the prosecution evidence and give threats to the first informant or any of the prosecution witnesses.

(vi) The appellants shall furnish their contact numbers and residential addresses to the investigating officer and shall keep the information updated, in case there is any change.

(vii) It is made clear that, if any of the conditions are flouted, their bail shall be liable to be cancelled.

(viii) Advocate Ms. Apache is appointed for Respondent No.2 in all the appeals. She shall be entitled to receive fees as per Legal Aid rules.

(ix) With this, Criminal Appeals stand disposed off.

[KISHORE C. SANT, J.]