



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

CRIMINAL APPEAL NO. 448 OF 2025

Dewansh Alias Devasingh Karansingh Sikkarwar .. Appellant

Versus

The State Of Maharashtra and another .. Respondents

Mr. Rajendra Deshmukh, Senior Advocate i/b Mr. Ramankumar G. Dodiya, Advocate for the Appellant.

Smt. M. N. Ghanekar, APP for Respondent No. 1.

Smt. P. K. Apache, Advocate for Respondent No. 2 (Appointed).

CORAM : KISHORE C. SANT, J.

DATE : 25th AUGUST, 2025.

PER COURT :-

. Heard learned senior counsel for the appellant, learned A.P.P. and learned advocate appointed for respondent No. 2.

2. The present appellant has approached this Court challenging an order passed by the learned Additional Sessions Judge – 1, Nanded dated 05.02.2025 thereby dismissing the application of the present appellant seeking his release on bail in connection with FIR registered with Nanded Rural Police Station bearing Crime No. 0862/2024 dated 23.09.2024. The respondent No. 2's

brother Shivam had married with sister in law of present appellant. Because of the marriage the relatives of the present appellant and his brother in law were annoyed as the marriage was inter-caste marriage and the deceased happened to be a person belonging to Scheduled Caste. On that count, it is alleged that, constantly threats were given by the present appellant and Palvindersingh i.e. brother in law of the present appellant and brother of Simran who got married with the deceased. It is alleged that, missing complaint was filed by Simran on 20.09.2024, however, there was no clue. On 23.09.2024 maternal uncle of the informant namely Suraj informed the informant that he found a dead body in the river. On that, the informant and others went to the spot. They found a dead body of deceased Shivam. On that, the information was lodged with the police. On the basis of information the appellant came to be arrested on 29.09.2024. Till 05.10.2024 he was in P.C.R. and thereafter in the M.C.R. Another accused Palvindersingh is still absconding. The offence is registered under Sections 103(1), 238, 3(5) of the Bhartiya Nyaya Sanhita and under Sections 3(2), 3(v), 3(IV) of the SC and ST (Prevention of Atrocities) Act. After investigation,

now charge-sheet is also filed. The present appeal is thus filed after filing of the charge-sheet.

3. The learned senior advocate for the appellant vehemently argued that, entire case is based on circumstantial evidence. There is no direct evidence available. There is no recovery of any incriminating material from the appellant. The weapon is also not seized or recovered. He submits that, the spot panchanama is done on 24.09.2024 i.e. prior to arrest of the appellant. There is unexplained delay of three days in lodging the complaint. The learned Trial Court has mainly rejected the application on the ground of criminal antecedents. He submits that, it is otherwise that because there are criminal antecedents, the suspicion is expressed against the present appellant that he is involved. He invited attention to the evidence showing the injuries are chopped injuries. He further submits that, nothing from the spot is recovered. The allegation is that, the offence has taken place in the house of Kamaljit Kaur i.e. mother of Simran. However, her statement is also absent in the charge-sheet. He submits that, merely on the basis of suspicion the appellant is in

jail since last 11 months.

4. The learned A.P.P submits that, strong circumstances are there against the present appellant. It is a matter of fact that, sister in law of the present appellant married with a person belonging to scheduled caste and on that he always used to threat the deceased and his brother. There are four FIR's. lodged against him. FIR dated 16.04.2023 is lodged by the informant, FIR dated 02.06.2022 is lodged by uncle Suresh, FIR dated 20.03.2023 is lodged by another uncle Suraj and FIR dated 01.01.2023 is lodged by uncle Sanjay. All the offences are bodily offences. In the FIR dated 16.04.2023 the allegation is even under Section 307 of the Indian Penal Code. This clearly shows a strong motive against the appellant. The offences were registered even under the Arms Act. The circumstances are strong. On the date of incident there were calls made by the Dewansh with the deceased which clearly also points out connection of the accused. He had frequently called on the date of incident. Blood stains were found near the main entrance of the house of Kamaljit Kaur where alleged incident has taken place and the earring and pair of shoes of the deceased were found near the spot. She thus submits that, a case

is clearly made out. She also submits that, main accused Palvindersingh is still absconding. She thus submits that, a strong case is made out and no bail be granted.

5. The learned advocate for respondent No. 2 also vehemently argued that, presently a case is clearly made out against the appellant. No case is made out for grant of bail.

6. During the course of argument, the learned senior advocate for the appellant relies upon the judgment in the case of Prabhakar Tewari Vs. state of Uttar Pradesh reported in AIR ONLINE 2020 SC 96.

7. No doubt, a case is only based on circumstances. This Court, therefore, needs to see as to whether the circumstances are strong enough pointing out involvement of the present appellant in the incident. So far as motive is concerned, it is clearly appearing that sister in law of the appellant married with a person belonging to scheduled caste and on that count he had threatened the deceased and his relatives on various occasions and the complaints were also filed. He was even arrested in connection with earlier F.I.R's. Thus, criminal antecedents and motive are

against the present appellant. So far as circumstances are concerned, as rightly pointed out by the learned A.P.P. that CDR call report shows that, on 20.09.2024 there were calls made by the appellant to the deceased. There is reason to believe that the deceased was called by Dewansh near the spot. In connection with earlier offences he was arrested that also needs to be considered.

8. So far as the judgment relied upon by the learned senior advocate for the appellant in the case of **Prabhakar Teweri** (*supra*), it is seen that, in the said case the High Court had granted bail to the accused person in that case. The said order was challenged before the Hon'ble Apex Court. It is in that view of the matter the Hon'ble Apex Court held that, mere having criminal antecedents is no ground to refuse the bail. Thus, order was in the facts of that case. This Court finds that, it was a murder case. The Court mainly considered that, the factors for testing the legality of granting bail were absent in the impugned order. The Court further recorded that, there was application of mind and reasons were given while granting bail. Thus it was necessarily in the facts and circumstances of that case.

9. In the present case, even on merits, strong circumstances are there against the present appellant. This Court is, therefore, not inclined to allow the appeal. Criminal appeal is, therefore, dismissed.

10. The learned advocate for respondent No. 2 is appointed through Legal Aid Centre. This Court appreciates her efforts. She shall be entitled to receive fees of Rs. 5,000/- (Rs. Five Thousand only) to be paid by the Legal Aid Centre.

(KISHORE C. SANT, J.)

PS.B.