



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPEAL NO. 515 OF 2025

AKASH SAHADEV MUTALE

VERSUS

THE STATE OF MAHARASHTRA AND ANOTHER

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Shri Ghanekar Nilesh S., Advocate for the Appellant.

Shri Vivek M. Limte, APP for Respondent No.1/State.

Shri Shubham S. Pawar (appointed), Advocate for Respondent No.2.

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CORAM : SUSHIL M. GHODESWAR, J.

DATE : 24 November 2025

P. C. :-

1. By this appeal, the appellant is praying for grant of regular bail in Crime bearing FIR No.789/2024 registered on 31.12.2024 with Omarga Police Station, Omarga, District Osmanabad/ Dharashiv for the offences punishable under Sections 60, 61(2), 189(4), 190, 191(3), 103, 238 of the Bharatiya Nyaya Sanhita, 2023 and Section 3(2)(v) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 (for short, 'the Atrocities Act'). The appellant also challenges the order dated 10.04.2025 passed by learned Additional Sessions Judge, Omarga on an application below exhibit 6 in Special Case No.7/2025 whereby, the said bail application came to be rejected.

2. On 31.12.2024, the said FIR came to be lodged by respondent No.2/ informant (Rahul Parshetti) stating therein that on 30.12.2024 at around 11:30 AM, he along with his friends Ranjit Suryawanshi and Ganesh were consuming beer in a cabin in Riddhi Beer Bar. At that time, two persons from his village, namely, Sunil Makale and Vikas Bhosle armed with sword like weapon came in cabin and started assaulting the informant and his friends. Due to said assault, his friend Laxman Suryawanshi fell down. When the informant and Laxman forcibly came out of the said Bar, at that time, other accused persons, namely, Akash Mutale (present appellant), Ratan Kukurde, Tulshiram Mutale and one unknown person started assaulting the informant and his friend Laxman with sticks. When they tried to escape in order to save themselves, the accused persons followed them and started assaulting them with dangerous weapons like axe, sticks and hunter. Due to said assault, Laxman became unconscious and, therefore, the accused persons fled away from the spot. Thereafter, Laxman was taken to the hospital for treatment. On the basis of these allegations, the FIR came to be registered.

3. However, on 06.01.2025, the victim Laxman expired

while taking treatment in hospital. As such, the offence of murder came to be added. The appellant came to be arrested on 18.01.2025. The Investigating Officer recorded statements of various witnesses and also recorded the statement of the informant under Section 183 of the BNSS. After completing investigation, the charge sheet came to be filed and the case is registered as Special Case No.7/2025 before learned Additional Sessions Judge, Omarga.

4. Learned advocate for the appellant submits that the appellant is arrested on 18.01.2025 and since then he is behind bars. Since investigation is completed and charge sheet is filed, there is no purpose in keeping him behind bars. The statements of several witnesses have been recorded and they have not attributed any specific role to the appellant as regards holding any dangerous weapon at the time of incident. At the most, the appellant was seen in CCTV footage while carrying hunter like weapon in his hand. However, there is no corroboration as regards the weapon being carried out by the appellant. The appellant is ready to abide by terms and conditions which may be imposed by this Court. Nothing incriminating has been seized

from him. Entire charge-sheet nowhere discloses any specific overt act attributed to the appellant. According to learned advocate, even if entire allegations of the informant are taken as it is, it does not constitute offence as alleged against the appellant in the FIR. Learned advocate further submitted that trial will take its own time to commence and conclude and as such, the appellant cannot be kept behind bars for indefinite period. He, therefore, prayed for releasing the appellant on regular bail.

5. *Per contra*, learned APP strongly opposes the instant appeal and states that the appellant is *prima facie* involved in serious crime. There is ample material against the appellant connecting him with the instant crime. If the appellant is released on bail, he will bring pressure on material witnesses. As such, the appellant should not be released on regular bail.

6. I have also heard learned advocate for respondent No.2, who strongly opposed the instant appeal and reiterated the argument advanced by learned APP. He specifically submitted that the appellant has constructive role in crime in question. Learned advocate has also filed the written notes of arguments praying for rejection of this appeal contending that the appellant

is not entitled for grant of regular bail.

7. After having heard learned advocates for respective parties and after going through material available on record, it is evident that as per the statement of the informant the appellant was present at the spot and was carrying stick in his hand and has assaulted him and the deceased. The deceased was admitted in hospital and expired after five days of incident. There are multiple injuries on the body of the deceased as per the postmortem report. Major injuries are incise and contusions. CCTV footage obtained during investigation discloses that the appellant at the time of incident was carrying hunter like weapon and same is seized by the Investigating Officer. One witness has stated that the present appellant was armed with an axe. However, this statement is no corroborated with the statements of other witnesses. Though the question of corroboration of evidence would be considered during trial, however, at this stage, it is to be seen that the appellant is in custody since 18.01.2025 and there is no possibility of concluding trial in near future.

8. It is well settled that at the stage of consideration of bail, the Court is not required to conduct a mini-trial or to

appreciate evidence in detail. The Court is to assess whether, there exists *prima facie* material indicating involvement of the accused and whether further detention is necessary. In the present case, although the appellant is shown to have been present at the spot, the material in the charge-sheet does not attribute any fatal blow to him. The allegation regarding the weapon carried by the appellant is inconsistent in the statements of witnesses. The recovery shown against the appellant is not of any deadly weapon and its evidentiary value is a matter for trial. In such circumstances, continued incarceration of the appellant, particularly when the investigation is complete and trial is likely to take considerable time, would not serve any further purpose. Looking to material available in the charge-sheet, *prima facie* the appellant is entitled for regular bail. There are no criminal antecedents against the appellant. Apprehension expressed by learned APP and learned advocate for respondent No.2 that the appellant, if released, would threaten or pressurize the witnesses and informant, can be taken care of by imposing stringent conditions.

9. In view of the aforesaid facts and circumstances, the

case for grant of regular bail to the appellant is made out. Therefore, the instant appeal deserves to be allowed by granting regular bail to the appellant on certain conditions. Hence, the following order:

ORDER

- a) The Criminal Appeal stands allowed.
- b) The impugned order dated 10.04.2025 is quashed and set aside.
- c) In connection with Crime bearing FIR No.789/2024 registered on 31.12.2024 with Omarga Police Station, Omarga, District Osmanabad/ Dharashiv for the offences punishable under Sections 60, 61(2), 189(4), 190, 191(3), 103, 238 of the Bharatiya Nyaya Sanhita, 2023 and Section 3(2)(v) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989, the appellant shall be released on furnishing PR bond of Rs.25,000/- [Rupees Twenty Five Thousand Only] with one solvent surety/ security in the like amount.
- d) The appellant shall attend the concerned police station as and when called by the Investigating Officer till

completion of trial and shall also attend on the dates as are fixed by the learned Sessions Court.

e) The appellant shall not try to contact or pressurize the witnesses or the informant, in any manner whatsoever.

f) The appellant shall not enter the territorial jurisdiction of Omarga Police Station, District Dharashiv, until conclusion of trial, except for attending the dates of trial.

g) In case the appellant violates any of above conditions, the State as well as the Informant are at liberty to seek for cancellation of bail.

10. Learned advocate Shri Shubham Pawar is appointed through High Court Legal Aid Services Sub Committee, to represent respondent No.2/ informant. After thoroughly preparing, he has conducted the matter and strongly opposed the appeal. His fees be quantified and paid to him as per rules.

11. However, it is made clear that the observations made in this order are *prima facie* in nature for the purpose of adjudication of this appeal.