



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

Criminal Appeal No. 675 Of 2024

Uttam Dhenu Rathod

Age : 50 years, Occupation – Labour,

R/o : Narkhodi Tanda, Jalkotwadi,

Tq. Tuljapur, District Osmanabad.

.. Appellant

Versus

1. The State of Maharashtra,

2. The Superintendent of Police,
Osmanabad.

3 Akshay Sahdeo Maske,
Age : 24 years, Occupation - Labour.
R/o. Jalvaga Mesai,
Tq. Tuljapur, District Osmanabad.

.. Respondents

- * Mr. Joydeep Chatterji, Advocate for the Appellant.
- * Mr. S.M. Ganachari, APP for Respondent No. 1 and 2/State.
- * None present for Respondent No.3.

CORAM : SHAILESH P. BRAHME, J.

DATE OF RESERVING THE ORDER : 26th MARCH 2025

DATE OF PRONOUNCING THE ORDER : 28th MARCH 2025

FINAL ORDER :

- . Heard both sides. None appeared for Respondent No.3.

2. The Appellant is challenging order of rejection of his regular bail passed below Exhibit-6 in Special Case No.44/2024. He is arrested on 12.02.2024 in C.R. No.65/2024 registered with Naldurg Police Station, District Osmanabad for offences punishable under Sections 307, 302, 201 read with 34 of the Indian Penal Code and under Sections 3(2), 3(v) of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act and under Section 7(1)(d) of Protection of Human Rights Act.

3. Respondent No.3, who is son of deceased Sahdeo, lodged report on 12.02.2024 that Appellant owned a kiln and Informant's family was working with him. Appellant was trying to make advances towards the sister of the Informant which was noticed by the deceased and Appellant was being reasoned for that. On fateful night of 10.02.2024, the Appellant intimated that his father was injured by falling from the motorcycle and thereafter he was found to be unconscious with multiple injuries. He was shifted to hospital. Thereafter on 22.02.2024, he succumbed to the injuries.

4. Learned Counsel for the Appellant Mr. Joydeep Chatterji submits that there is no direct evidence against the Appellant. The cause of death was head injury. The axe recovered at the instance of co-accused Nilabai, is sent for chemical analysis report of which, is awaited. He would submit that both the co-accused are released on bail by High Court. It is submitted that the medical opinion about the weapon is dicey. He would advert my attention to statements of Prajakta to show that it is

inconsistent with First Information Report. It is further submitted that statement of Maya is damaging to the prosecution theory of motive. My attention is drawn to spot panchanama which shows that the floor and wall of the office where the incident took place, smeared with blood, but no specimen was collected.

5. Learned APP relies on the affidavit-in-reply. It is submitted that the Appellant was present on the spot and his hands were smeared with the blood which is clear from the statement of Sudhakar and Akshay. The statements are consistent with F.I.R. There was strong reason for the Appellant to eliminate the deceased because he was an obstacle for maintaining relations with Maya. The spot panchanama, recovery of weapon with blood stains and statement of Prajakta connect the Appellant to the crime. The offence is very serious in nature.

6. I have perused F.I.R. and the statements of Maya, Prajakta and Sudhakar and Savita. The presence of the Appellant immediately after assaulted on the spot cannot be disputed. It is also fact that the Appellant helped in shifting the deceased to the hospital. The spot panchanama shows that the floor and the wall of the office where the incident took place, were having blood stains which were attempted to be washed out. The weapon was having blood stains which was sent to chemical analysis.

7. It is relevant to consider the statement of Prajakta, in which she stated that at the instruction of Informant, she had locked office and on the next day, she found that the room was

tried to be washed, which was not the theory of Informant. Prajakta had called Informant in the morning and informed that co-accused Nilabai broke open the lock and tried to destroy the evidence. Her statement under Section 164 is also on the same line with slight improvisation.

8. The statement of Maya dislodges the prosecution theory of motive. She candidly denied her relationship with Appellant. Additionally it was stated by her that deceased was found to be in company of person and they were having liquor. It was Sudhakar who was instrumental in implicating the Appellant. It is very surprising that Savita wife of the deceased, was not aware of any alleged advances of the Appellant towards her daughter Maya. The papers of investigation do not disclose that there was ever any dispute or quarrel between the Appellant and the deceased. The circumstances showing motive is absent.

9. The circumstances against the Appellant are not consistent and strong enough to connect him to the crime, except a suspicion. In this backdrop, if the investigation is over and Appellant is in jail since 12.02.2024, I find that he is entitled to be released on bail. Learned Judge is not justified in rejecting the application for bail. I, therefore, pass following order :

ORDER

(a) Criminal Appeal is allowed by quashing and setting aside the order dated 19.07.2024 below Exhibit-6 in Special Case No.44/2024.

- (b) The Appellant shall be released on bail on furnishing P.R. Bond of Rs.30,000/- with one solvent surety.
- (c) He shall not tamper the evidence or the prosecution witnesses.
- (d) He shall cooperate with the Investigating Agency or the trial Court.

**SHAILESH P. BRAHME
JUDGE**

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