



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

27 CRIMINAL APPEAL NO. 543 OF 2025

SWATI BHAUSAHEB KSHIRSAGAR AND ANOTHER
VERSUS
THE STATE OF MAHARASHTRA AND ANOTHER

Mr. Joydeep Chatterji h/f. Mr. A.Y. Pandule, Advocate for the appellants.
Ms.A.S. Deshmukh, APP for respondent No.1-State.
Mr.Swapnil Dargad, Advocate (appointed) for respondent No.2.
Mr.Nilesh N. Bhagwat, Advocate for respondent No.2.

CORAM : KISHORE C. SANT, J.
DATE : 03.09.2025

PC :-

01. Heard learned Advocate for the appellants, learned APP for the respondent-State, learned Advocate for respondent No.2 and learned Advocate (appointed) for respondent No.2.

02. The appellants – two ladies have approached this Court seeking their release on bail in connection with Crime No. 122/2025 registered with Ashti Police Station, Dist. Beed for the offences punishable under sections 103(1), 189(2), 189(3), 191(2), 190 of the Bhartiya Nyaya Sanhita and under sections 3(2), 3(v), 3(2)(va) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act. Their bail application came to be rejected by the learned Sessions Court

by way of the impugned order.

03. The prosecution story, in short, is that deceased Vikas was found with daughter of accused No.1 – Bhausahab. It was suspected that they had love affair. On that, he was called at the house of Bhausahab. It is alleged that deceased Vikas was tied there in the house of Bhausahab. He was severely assaulted for two days by wire. Names of two ladies are taken as they happen to be family members of Bhausahab. The information that Vikas was tied and was confined in the house of Bhausahab was received by Prakash – a friend of Vikas. On receipt of information, he went to the house of Bhausahab. There he found appellant - Suvarna at the house. On asking her as to where is Vikas. She informed that Vikas was suffering from abdomen pain and therefore other accused have taken him to the Government Hospital at Kada. They went to the hospital at Kada. There they came to know that deceased was hospitalised by two persons, who immediately left the hospital. Later on Vikas died. The complaint was, therefore, lodged with the police station.

04. Present appellants came to be arrested on 16.03.2025 and since then they are in jail. Learned Advocate Mr. Chatterji for the

appellants vehemently argued that though the incident happened is unfortunate and one person lost his life, however, there is no exact role alleged against present appellants. They are in jail since for about six months. There is nothing to show that there was active role played by these appellants. He, thus, prays for setting aside the impugned order and for release of the appellants on bail.

05. Learned APP vehemently argued that this is a case of common intention. Vikas died in the house of the accused. For two days they did not try to rescue him, nor did they inform it to any one. This clearly shows that the appellants are also party to the offence.

06. Learned Advocate Mr. Bhagwat and Mr. Dargad, both submit that it is a case of honour killing. Common intention is clearly reflected on the part of the appellants. Statement recorded under section 183 of the Cr.P.C. of the informant – Prakash clearly points out involvement of the appellants in the offence. Learned Advocate Mr. Dargad also relied upon observation of the Hon'ble Apex Court in the case of **Bhagwan Dass Vs. State (NCT) of Delhi, reported in 2011(3) ALL MR (cri) 2028.**

07. This Court has gone through the FIR, medical report, PM notes and statements. No doubt, it is a serious offence and case appears to be of honour killing. However, from the material on record, involvement of the appellants need to be seen. Both the ladies are alleged to be in the house and they are party to the offence. They shared common intention. The offence is committed in connivance with each other. This Court finds that there is no positive role shown of both these appellants. They are added as accused with the aid of common intention. When there is no specific allegation of assaulting the deceased, it would not be desirable to keep the appellants behind the bar. The Hon'ble Apex Court in the case of **Bhagwan Dass (supra)** has observed that the cases of honour killing have become commonplace in many parts of the country and particularly in some states. Instances of honour killing are happening in the society. However, this Court finds, that itself would not be a reason to refuse bail to a person merely on some accusation. The Courts still have to see exact role allegedly played by each individual accused. From the FIR, this Court needs to see their role.

08. In the present case, this Court finds that though the allegations show that these appellants were very much in the house

when the offence took place, however, there is nothing to indicate that they have positively taken part in the incident. The learned Trial Court had rejected the application mainly on the ground of seriousness of offence, however, failed to see the exact role of the present appellants. This Court is, therefore, inclined to allow the appeal. Hence, following order :-

ORDER

(1) This Criminal Appeal is allowed.

(2) The impugned order dated 04.07.2025 passed by Special Judge (Atrocity), Beed in Special (Atrocity) Case No. 104 of 2025, is quashed and set aside.

(3) The appellants shall be released on bail in connection with Crime No. 122/2025 registered with Ashti Police Station, Dist. Beed for the offences punishable under sections 103(1), 189(2), 189(3), 191(2), 190 of the Bhartiya Nyaya Sanhita and under sections 3(2), 3(v), 3(2)(va) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, on executing PR bond in the sum of Rs. 25,000/- (Rupees Twenty Five Thousand) with one solvent surety in the like amount each, with following conditions.

i) The appellant shall not tamper with the prosecution evidence and they shall not try to contact any of the witnesses or the informant.

ii) The appellants shall give their contact details like residential address, mobile number etc. to the concerned Police Station.

iii) They shall attend the concerned police station as

and when called by the Investigating Officer.

(4) This Court appreciates efforts taken by learned Advocate Mr. Dargad appointed to represent respondent No.2. His fees is quantified at Rs. 5000/- (Rupees Five Thousand Only) to be paid by High Court Legal Services Sub-Committee, Aurangabad.

[KISHORE C. SANT, J.]