



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPEAL NO. 643 OF 2025

BALAJI VILAS MAGAR

VERSUS

THE STATE OF MAHARASHTRA AND ANOTHER

...

Shri Ghanekar Nilesh S., Advocate for the Appellant

Shri G.O. Wattamwar, APP for Respondent No.1/State.

Shri A. R. Lukhe (appointed), Advocate for Respondent No.2.

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CORAM : SUSHIL M. GHODESWAR, J.

DATE : 09 October, 2025

P. C. :-

1. By this appeal, the appellant is praying for grant of regular bail in Crime bearing FIR No.351/2024 registered on 16.12.2024 with Washi Police Station, Taluka Bhoom, District Osmanabad for the offences punishable under Sections 103(1), 238, 61(2) r/w 3(5) 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').

2. On 16.12.2024, the said FIR came to be lodged by respondent No.2/ informant stating therein that he is serving in a police department and on 12.12.2024 he had gone to Nagpur as

he was deputed on Bandobast duty at winter session of Maharashtra Legislative Assembly. Since 08.12.2024 he was trying to establish contact with his mother over phone, but she did not pickup his call. Therefore, he made phone call to his maternal uncle Deepak Thorat and informed him that his mother was not picking up his call. When he got information from his neighbour Arun Maske over phone, he came to know that gate of his house was locked. On 13.12.2024 maternal uncle of informant went to Golegaon and informed the informant over phone that his house was locked and his mother and grandmother were missing. Thereafter, Deepak Thorat went to Washi police station and lodged missing complaint about the missing of informant's mother and grandmother. Thereafter, on 14.12.2024 at about 9.00 p.m., Deepak Thorat made phone call to informant and told him that he had come to Washi police station and his grandmother was present there, however, his mother did not come to police station. Thereafter, on 15.12.2024 at about 10.00 a.m., his maternal uncle Deepak Thorat made phone call to him and told him that he had come to agricultural field situated at Golegaon alongwith police. He further told him that when police broke open the door of house situated in the agricultural field,

they found one pit inside the house. He asked informant to come to Golegaon as they had suspicion that someone was buried in the said pit. Thereafter, at about 6.00 p.m. Dipak Thorat again made phone call to informant and informed him that the dead body of his mother was found in plastic barren which was kept in the house. Thereafter, Deepak Thorat asked informant to come to Dharashiv. Accordingly, the informant went to Dharashiv. Further it has been alleged by the informant that on 16.12.2024, the grandmother of informant told him that on 8.12.2024 co-accused Anjali Vikas Bhosale and her daughter Nikita had come to their house. They told his mother that they would return her gold and thereafter, they took his mother to agricultural field. However, when the co-accused Anjali and Nikita returned home, his mother was not with them. She further told informant that co-accused Anjali told her that his mother was met with an accident and they took her to Osmanabad. Thereafter, they took her (informant's grandmother) in the car of present appellant to see his mother. When the informant felt sure that the appellant and co-accused committed murder of his mother, he lodged the said complaint.

3. The appellant has been arrested on 16.12.2024 and since then he is behind bars. Investigation was set in motion and after completion of investigation, charge-sheet came to be filed and the case has been registered as Special Case (Atrocity) No.12/2025. The appellant filed application exhibit 9 in Special Case No.12/2025 before learned Additional Sessions Judge, Bhoom, for regular bail. However, the said bail application has been rejected vide order dated 24.04.2025. Hence, this appeal for regular bail.

4. Learned advocate for the appellant submits that the appellant is innocent and has no connection with crime in question. Since investigation is completed and charge sheet is filed, there is no purpose in keeping him behind bars. He is ready to abide by terms and conditions which may be imposed by this Court. Nothing incriminating has been seized from him and the case of prosecution is entirely based on circumstantial evidence. There is no direct eyewitness to the alleged incident of murder. Entire charge-sheet nowhere discloses any specific overt act attributed to the appellant. Thus, on the basis of suspicion, offence is registered against the appellant. According to learned

advocate, even if entire allegations of the informant are taken as it is, it does not constitute offence against the appellant under Sections 103(1), 238, 61(2) r/w 3(5) of the Bharatiya Nyaya Sanhita, 2023. 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 involved in serious crime. The appellant has played active role in crime in question. The appellant has acted hand in gloves with other accused and committed brutal murder of mother of the informant. 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. Therefore, 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 the case of prosecution is based on circumstantial evidence. The allegation against the appellant is that he along with co-accused persons had been to finance office. However, it is revealed that the appellant was not last seen in the company of deceased mother and co-accused persons. It *prima facie* appears that last seen theory brought by the prosecution in fact discloses presence of co-accused persons along with the deceased and not the present appellant. The prosecution has recorded the statement of one Maruti Sonkamble, who stated that he had seen two ladies and one daughter going towards agricultural field on 08.12.2024 at around 11:00 AM. The said witness also stated that he saw only one woman along with daughter returning from agricultural field towards village around 04 to 05 PM. Thus, the witness, on whom the prosecution is trying to base its case, is also not stating anything about the present appellant. The statement recorded under Section 164 of the witness, Sudamati Gaikwad, also does not disclose anything about presence of the appellant along with other co-accused persons. 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.

8. 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 24.04.2025 passed by the learned Additional Sessions Judge is quashed and set aside.
- c) In connection with Crime bearing FIR No.351/2024 registered on 16.12.2024 with Washi Police Station, Taluka Bhoom, District Osmanabad for the offences punishable under Sections 103(1), 238, 61(2) r/w 3(5) 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) 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.

9. Learned advocate Shri A.R. Lukhe 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.

10. 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.