



IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPEAL NO. 673 OF 2025

1. Sushant s/o Sudhir Sapate,
Age: 22 years, Occ; Labour,
R/o; Shukrawar Peth, Tuljapur,
Tq. Tuljapur, District Dharashiv -413601
2. Vishwajeet S/o Vijay Amrutrao,
Age; 25 years, Occ; Labour,
R/o; Khadkal Galli, Tuljapur,
Tq. Tuljapur, Dist. Dharashiv – 413601. ...APPELLANTS

VERSUS

1. The State of Maharashtra
Through Police Station, Tuljapur,
Tq. Tuljapur, District Dharashiv -413601
2. Mahesh s/o Tuljaram Londhe,
Age; 26 years, Occ; Private Job,
R/o; Shukrawar Peth, Matang Nagar,
Tuljapur, Tq. Tuljapur,
District ; Dharashiv – 413601. ...RESPONDENTS.

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Advocate for Appellants : Mr. Manoj Uttamrao Shelke
APP for Respondent No. 1/State : Ms. Anuradha S. Mantri
Advocate for Respondent No. 2 : Mr. V.H. Sangole h/f Ms. Shubhangi D.
More (appointed)

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CORAM : SUSHIL M. GHODESWAR, J.
DATE : 10.11.2025

PER COURT :

1. Heard. In this appeal appellant No. 1 is challenging order dated 22.07.2025, passed below Exh.157 in Special Case (Atrocity) No.

22 of 2023 and the appellant No. 2 is also challenging the order dated 22.07.2025 passed below Exh. 162, wherein, their applications for grant of regular bail came to be rejected.

2. According to the appellants, they are being prosecuted for crime No. 432 of 2022 for the offence punishable under Sections 307, 120-B, 427, 504, 506 r/w 34 of the Indian Penal Code (for short IPC), under Section 3 (2) (va) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 (for short "SC and ST Act") and under Sections 4 and 25 of the Arms Act, by the Tuljapur Police Station. The said case is committed to Special Court vide Special Case (Atrocity) No. 22 of 2023.

3. The Sessions Court vide its order dated 31.03.2023 had allowed their regular bail application in Special Case No. 22 of 2023 by passing order below Exh. 6. Mr. Shelke, learned Advocate for the appellants further submits that when the trial was going on the learned Sessions Court has recorded the absence of the appellants and therefore, Non Bailable Warrants came to be issued against them. The further submission of the learned Advocate for the appellants is that, in fact, they were in custody as they were arrested by police in subsequent crime No. 521 of 2023 registered with the same Police Station under Section 307, 324, 143, 148, 149, 504, 506 of the Indian Penal Code and under Section 3 (1) (r) and 3 (1) (s), 3 (1) (a), 3 (2) (va) of the SC and ST Act and

under Section 3 and 25 of the Arms Act.

4. According to them since they were in custody, therefore, they could not attend the Court. They further submitted that vide order dated 25.03.2025, this Court in Appeal No. 1029 of 2024 was pleased to grant them regular bail in subsequent Crime No. 521 of 2024. Thereafter, they have preferred an application for grant of regular bail in Special Sessions Case No. 22 of 2023, vide Exh. 157 as they were taken into custody in Crime No. 432 of 2025 on 22.03.2024. Mr. Shelke in support of his submission pointed out from the Roznama that they were absent on the dates when they were in custody in Crime No. 521 of 2023.

5. Per-Contra, Ms. Mantri, learned APP for State strongly opposed the application on the ground that the appellants are the hardened criminals and they have indulged in similar crimes again and again and as such they are misusing their liberty. She has also submitted that their custody in another crime is not a ground to remain absent before the Sessions Court. They ought to have been produced by the Jail Authorities before the Sessions Court. She submitted that there is ample evidence against the appellants, so as to deny them regular bail. Accordingly, she has prayed for rejection of the bail application.

6. I have heard Ms. V.H. Sangole h/f Ms. Shubhangi D. More,

the learned Advocate for respondent No. 2. She has strongly opposed the bail application of the appellants. She has adopted the submission of the learned APP and prayed for dismissal of the appeal.

7. It is to be seen that the appellants were earlier granted regular bail by the Sessions Court and Non Bailable Warrant came to be issued against them due to their absence before the Sessions Court. The fact that they were in custody in another crime is not disputed by the prosecution. Therefore, their absence before the Sessions Court cannot be considered to issue Non Bailable Warrant against them as they were in custody of the same Police Station. It was on the part of the police authority to produce them before the Sessions Court on the given date. On their failure the appellants cannot be made to suffer.

8. The fact that the appellants were already enlarged on bail, therefore, I am inclined to grant them bail. The submission of learned APP as regards their criminal antecedents and involving in the similar activities again and again cannot be kept aside. In that view of the matter, by putting stringent conditions, the present appeal can be allowed. In view of the above, the appeal is allowed in the following terms :-

a] The Appellants shall be released on bail in connection with crime No. 432 of 2022 for the offence punishable under Sections 307, 120-B, 427, 504, 506 r/w 34 of the Indian Penal Code (for short IPC), under Section 3 (2) (va) of the Scheduled Castes and Scheduled Tribes (Prevention

of Atrocities) Act, 1989 and under Sections 4 and 25 of the Arms Act, by the Tuljapur Police Station, on furnishing PR bond of Rs.25,000/- each with one surety each in the like amount to the satisfaction of the trial Court.

b] The Appellants shall not enter the jurisdiction of the Tuljapur city and District Dharashiv limits during pendency of the trial. The Appellants are allowed to enter into the city limits only on the dates of trial.

c] The Appellants, upon being released on bail, shall not contact the informant, in any manner whatsoever, during the pendency of the trial.

d] The Appellants shall co-operate with the trial Court and shall attend each and every date, unless exempted by the trial Court, for reasons to be recorded in writing.

e] The Appellants shall not tamper with the evidence of the prosecution and shall not influence the informant, witnesses and other persons concerned with the case.

f] The Appellants, upon being released on bail, shall place on record of the trial Court their details of Contact Number and residential addresses with updates in case of any change.

9. Needless to say, in case of violation of any of the aforesaid conditions, the bail granted to the Appellants shall be liable to be cancelled.

10. It is also clarified that the observations made in this order are limited to the disposal of the present appeal. The concerned Court shall proceed further in the matter without being influenced by the observations made hereinabove.

11. The appeal stands disposed of.

12. By order dated 21st October, 2025, passed by this Court, learned Advocate Ms. Shubhangi D. More was appointed by

this Court to represent the Respondent No.2 in this matter. However, her fees remained to be quantified. Thus the fees of Ms. Shubhangi D. More, learned Advocate appointed for Respondent No.2 in this matter be paid through the High Court Legal Services Sub-Committee, Aurangabad as per rules.

(SUSHIL M. GHODESWAR, J.)

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