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

927 CRIMINAL APPEAL NO. 678 OF 2025

Juned Jarawar Khan Pathan,
Age: 20 years, Occu: Labour,
R/o Nehru Chowk, Tq. Gangakhed,
Dist. Parbhani

....APPELLANT

VERSUS

1. The State of Maharashtra,
Thr. Police Station Officer,
Gangakhed Police Station,
Tq. Gangakhed, Dist. Parbhani

2. Arvind Maruti Salve,
Age: 20 years, Occu: Auto Driver,
R/o Ambedkar Nagar, Gangakhed,
Tq. Gangakhed, Dist. Parbhani

....RESPONDENTS

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Mr A. R. Syed, Advocate h/f Mr Faij Khan Jarif Khan, Advocate for
Appellant

Ms A. S. Mantri, APP for Respondent No.1/State

Mr Prasanna Chavan, Advocate for Respondent No.2 (appointed)

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CORAM : SUSHIL M. GHODESWAR, J.

DATE : 18 NOVEMBER 2025

P. C. :

1. By this criminal appeal, the appellant prays for quashing
and setting aside the order dated 16/07/2025, passed below Exhibit 3
in Special Case No.38/2025 by the learned Additional Sessions

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Judge/Special Judge, Gangakhed, Dist. Parbhani, whereby his application for grant of regular bail in connection with C.R. No.0303/2025, registered on 29/04/2025 with Gangakhed Police Station, Tq. Gangakhed, Dist. Parbhani for offences punishable under Sections 103(1), 115(2), 352, 351(2), 3(5) of the Bharatiya Nyaya Sanhita, 2023 and under Sections 3(1)(r), 3(1)(s), 3(2)(va) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989. He also prays for releasing him on regular bail in the said crime. The report is lodged by respondent No.2/informant, namely, Arvind Maruti Salve.

2. As per the First Information Report filed on 29/04/2025 by respondent No.2, it is alleged that, his father namely, Maruti Tukaram Salve was running a Hotel and Pan shop. On 29/04/2025, at 8.00 a.m., the accused persons, namely, Avej Khan Gafar Khan and Juned Jarawar Khan Pathan (present appellant) came to his Hotel and since they were not paying the charges, deceased Maruti refused to give them service on account of said issue. Therefore, quarrel took place between deceased Maruti and accused persons on account of non payment of charges by the accused persons. The accused persons alleged to have threatened the deceased and thereafter they went away towards the Godavari Ghat. The informant further stated in the report

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that, after the said incident, he along with his father went towards the Godavari Ghat and again quarrel took place between them and the accused persons. In the said quarrel, the appellants alleged to have assaulted the deceased and the informant. During the said scuffle, the deceased fallen down on his head and alleged to have received head injuries. The informant further stated in his report that, even after deceased fallen down, the appellants assaulted him by fist and kicks blows on his chest and stomach. The informant also stated that the present appellant has assaulted his father with fist and kick blows. Maruti succumbed to death, and therefore, the informant lodged the report.

3. On the basis of aforesaid report, Crime No.0303/2025 was registered for the offence punishable under Sections 103(1), 115(2), 352, 351(2), 3(5) of the Bharatiya Nyaya Sanhita, 2023 and under Sections 3(1)(r), 3(1)(s), 3(2)(va) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989. The deceased was referred to the post mortem. The Doctor, who conducted post mortem, noticed cause of death of deceased Maruti was due to head injury. However, he has also noticed one abrasion/cut injury and two other injuries. The Investigating Officer, after recording the above said crime recorded the spot panchnama and also seized incriminating

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material from the spot. The Investigating Officer, on the very same date i.e. on 29/04/2005 recorded stated of one Gajanan Devkate, who is driver of car. After completion of investigation, the Investigating Officer has filed charge-sheet.

4. Heard Mr Syed, learned Advocate for the appellant, learned APP for respondent No.1 and Mr Chavan, learned Advocate for respondent No.2. With their assistance, I have perused the material available on record.

5. Learned Advocate Mr Syed for the appellant submits that in pursuance of quarrel between the deceased and the accused persons, the alleged injuries have been caused due to sudden provocation, and as such, he submits that the appellant cannot be held guilty for the offence punishable under Section 103(1) of the Bharatiya Nyaya Sanhita. He further submits that, since the investigation in the matter is over and no aggravated act is committed by the appellant, the appellant deserves to be released on bail. He, therefore, prays for allowing the present appeal.

6. Learned APP Ms Mantri for respondent No.1/State supports the order of learned Additional Sessions Court. She strongly opposed the appeal claiming that the appellant has committed very

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serious offence punishable under Section 103(1) of the Bharatiya Nyaya Sanhita. She then submits that, though charge-sheet is filed, the offence is serious one and the appellant has alleged to have caused death of deceased. She, therefore submits that, the appellant may not be released on regular bail till the conclusion of the trial.

7. I have also heard learned Advocate Mr Chavan, appointed on behalf of respondent No.2, who reiterated the submissions made by learned APP. He submits that the appellant is involved in a serious crime. There is eye witness in the instant crime and till the conclusion of trial the appellant may not be released on bail. He further submits that, since the appellant is prima facie involved in the crime, he does not deserve to be released on bail. He, therefore, prays for dismissing the present appeal.

8. I have perused the FIR and the papers available on record. Learned APP has made available copy of the charge-sheet before the Court. On the basis of said investigation papers, it reveals that the Investigating Officer has recorded statement of one Gajanan Devkate on the very same day. The said statement was of the witness who was owner and driver of the taxi which was alleged to be hired by the accused persons. The said persons has witnessed very same incident that took place between accused and the deceased. Even otherwise, it

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is clear from the statement of the informant that, after morning incident, it is informant and deceased, who followed the accused persons upto Godavari Ghat and the incident of assault to each other took place there. In the said scuffle, the deceased appears to have fallen down and sustained head injuries caused to him which resulted in his death. Since the incident took place in a sudden fight, there is no evidence to show that there was any preparation by the accused persons of committing murder of the deceased.

9. In view of the above, I am of the opinion that the appellant has made out a case for regular bail. The appeal deserves to be allowed. Hence, I pass the following order :-

ORDER

(I) The present criminal appeal is allowed.

(II) The order dated 16/07/2025, passed below Exhibit 3 in Special Case No.38/2025 by the learned Additional Sessions Judge/Special Judge, Gangakhed, Dist. Parbhani, is hereby quashed and set aside.

(III) Appellant Juned Jarawar Khan Pathan shall be released on bail in connection with C.R. No.0303/2025, registered on 29/04/2025 with Gangakhed Police Station, Tq. Gangakhed, Dist. Parbhani for offences

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punishable under Sections 103(1), 115(2), 352, 351(2), 3(5) of the Bharatiya Nyaya Sanhita, 2023 and under Sections 3(1)(r), 3(1)(s), 3(2)(va) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989, on furnishing PR bond of Rs.25,000/- with one solvent surety/ security in the like amount.

(IV) Appellant shall not influence or contact with any witnesses or informant and not to interfere with the evidence of the prosecution.

(V) Appellant shall cooperate with the trial Court. He shall not enter in Gangakhed Taluka, however, he is permitted to enter in Gangakhed Taluka only to attend each and every date of trial, unless exempted by the trial Court.

(VI) Appellant shall place on record of the trial Court the details of his contract number and residential address with updates in case of any change.

(VII) Appellant shall attend the concerned police station and report to Police Station Officer or his subordinate officer as and when called for.

(VIII) Appellant shall not commit any crime during his bail period.

10. It is made clear that, in case of violation of any of the aforesaid conditions, the bail granted to the appellant shall be liable to be cancelled.

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11. Since learned Advocate for respondent No.2 is appointed through High Court Legal Aid Services, Sub Committee, Aurangabad, his fees shall be calculated and be paid to him as per rules.

12. It is also clarified that the observations made in this order are *prima facie* in nature for the purpose of adjudication of this appeal.

[SUSHIL M. GHODESWAR, J.]

sjk