



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

Criminal Appeal No. 890 Of 2024

Amol Navnath Aathre

Age : 20 years, Occupation-Education.

R/o Kaudgaon Aathre, Tq. Pathardi,

District Ahmednagar.

.. Appellant

Versus

**1. State of Maharashtra
Prosecutor, High Court,
Bench at Aurangabad.**

**2. The Superintendent of Police,
Ahmednagar,**

**3. Mahesh Balu Jadhav,
Age : 25 years, Occupation : Private Service,
R/o : Mandve, Tq. Pathardi,
District Ahmednagar,
At present R/o : Pimpri Chinchwad,
Mogre Vasti, Sane Colony, Zenda Chowk,
Pimpri Chinchwad, Tq. Haveli,
District Pune.**

.. Respondents

- * Mr. Joydeep Chatterji, Advocate for the Appellant.**
- * Mrs. Chaitali Chaudhari - Kutti, APP for Respondent No. 1 and 2/State.**
- * Mr. Akash E. Madne, Advocate for Respondent No.3 - Appointed.**

CORAM : SHAILESH P. BRAHME, J.

DATE : 18th MARCH 2025

FINAL ORDER :

- . Heard both sides.
2. The Appellant is challenging order dated 12.09.2024 passed by the Additional Sessions Judge, Ahmednagar, Dist. Ahmednagar below Exhibit-3 in Special Case No.198/2024, rejecting the prayer of releasing him on regular bail.
3. The Appellant is involved in offence bearing C.R. No.486/2024 registered with Pathardi Police Station for offences under Sections 302, 201 read with 34 of the Indian Penal Code and under Sections 3(2)(V) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act. He is behind bars since 26.05.2024. He had submitted application for releasing him on bail after filing of the charge-sheet.
4. It is alleged by the Respondent No.2/Informant that his brother deceased-Avinash was found to be dead on 04.05.2024 with multiple injuries inflicted by sharp object. He was killed by unknown persons. Hence the report was submitted by the Respondent No.2 on 04.05.2024.
5. Learned Counsel Mr. Joydeep Chatterji for the Appellant submits that First Information Report does not spell out name of the Appellant and even does not caste any doubt. There was no reason or the enmity for the Appellant to commit the overtact. There is no direct evidence against him. Only on the basis of recovery of weapon under Section 27 and the supplementary

statement of mother, the appellant is being implicated.

6. Per contra, learned APP relies on the affidavit-in-reply and tenders papers of investigation. It is submitted that there are in all 23 injuries inflicted by sharp weapon. The recovery panchanama was conducted at the instance of appellant. The offence in question is very serious. The Appellant is alleged to have destroyed his clothes. His application is rightly rejected by the trial Court.

7. I have considered rival submissions of the parties. The investigation is over and charge-sheet is filed. The role of the Appellant is surfaced by supplementary statement of the mother of deceased recorded on 31.05.2024. It is a hearsay version that there was dispute between deceased and the Appellant and due to that rivalry, deceased was killed. At this stage of the proceeding, it cannot be concluded that there is false involvement of the Appellant in the matter. The fact remains that there is no convincing material to connect him to the crime. Mere recovery at his instance is not sufficient. The weapon which was recovered was not having blood stains. It is not shown as to why the custodial interrogation is required.

8. Learned Counsel for the Appellant relies on the judgment of the Supreme Court in the matter of **Shahajan alias Shahajan Ismail Mohd. Shaikh Vs. State of Maharashtra**, AIR Online 2022 SC 1011. My attention is invited to paragraph no.50. However those observations are recorded in the case in which there was

conviction recorded by the trial Court after full-fledged trial. The observations at this juncture cannot be made applicable.

9. In the impugned order, bail is rejected by cryptic order and all aspects of the matter were not considered. It is liable to be quashed. Therefore I pass following order :

ORDER

A. The criminal appeal is allowed.

B. The impugned order dated 12.09.2024 passed below Exhibit 03 in Special Case No. 198 of 2024 by the learned Additional Sessions Judge, Ahmednagar is quashed and set aside.

C. The appellant shall be released on bail in connection with Cr. No. 486/2024 registered on 04.05.2024 with Police Station Pathardi, Dist. Ahmednagar for the offences punishable U/Sec. 302, 201 r/w Sec. 34 of the Indian Penal Code and U/Sec. 3[2] [V] of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 on furnishing personal bond of Rs. 50,000/- (Rs. Fifty thousands only) with one solvent surety of like amount on following conditions :

- (i) The appellant shall not tamper or contact with the prosecution witnesses.
- (ii) The applicant shall stay away from entire Pathardi taluka, Dist. Ahilyanagar for a period of two (02) months from today.

- (iii) He shall report his whereabouts to the investigating officer.
- (iv) He shall furnish his contact number with the investigating officer and shall make himself available as and when required by the investigating officer.

D. Fees of the learned counsel for the respondent No. 3 is quantified at Rs. 4,000/- (Rs. Four thousands only).

**SHAILESH P. BRAHME
JUDGE**

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