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

921 CRIMINAL APPEAL NO. 694 OF 2025

NARESH VINAYAK AMBEKAR

....APPELLANT

VERSUS

1. THE STATE OF MAHARASHTRA,
2. XYZ

....RESPONDENTS

.....

Mr Nilesh S. Ghanekar, Advocate for Appellant

Mr V. M. Lomte, APP for Respondent No.1/State

Ms Pramila V. Giri, Advocate (appointed) for Respondent No.2

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CORAM : SUSHIL M. GHODESWAR, J.

DATE : 3rd DECEMBER 2025

P. C. :

1. By this criminal appeal, the appellant prays for quashing and setting aside the order dated 17/06/2025, passed below Exhibit 16 in Criminal Special Case No.24/2024 by the learned Special Judge [Under SC/ST (PoA)] and ASJ, Mukhed, Mukhed, Tq. Mukhed, Dist. Nanded, whereby his application for grant of regular bail in connection with C.R. No.0332/2024 registered on 10/10/2024 with Mukhed Police Station, Tq. Mukhed, Dist. Nanded for offences punishable under Sections 103, 238 of the Bharatiya Nyaya Sanhita, 2023 and under Section 3(1)(r), 3(2)(v) of the Scheduled Castes and Scheduled Tribes

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(Prevention of Atrocities) Act, 1989 was rejected. He also prays for releasing him on regular bail in the said crime.

2. As per the First Information Report filed on 10/10/2024, on 08/10/2024, at around 09.30 am, the informant went to the construction site of house of Narsing Devkatte in Dabde Shirur, when his brother Ashok Chavare was at home. After he left, around 10.00 a.m., brother Ashok had left for work after informing his wife. After the informant returned home after finishing the construction work at 12.00 noon, he called his brother Ashok and asked where he was, then Ashok told that he was in Mukhed. After that, at around 5:00 PM, as his brother Ashok did not come home, his sister-in-law Sonali called Ashok again. Ashok told that he would be at home within ten to fifteen minutes. Then till 8:00 pm, his brother Ashok did not come home. When his sister-in-law Sonali called Ashok, his mobile phone was switched off. He also called Ashok many times, but the phone was switched off. After that, from the morning of 09/10/2024, he searched in Mukhed city and the surrounding areas, as well as with his relatives, but brother Ashok was not found. On 10/10/2024, at around 05.00 a.m., while searching for Ashok, his nephew Sonu Gaikwad from Shirur called him at around 09.30 a.m. and told his son Aniruddha that Ashok's motorcycle is lying on the road near the 'S'

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corner on the Mukhed to Savargaon Road. Thereafter, the informant alongwith his son Aniruddha and his relatives went there and found Ashok's Honda Shine motorcycle bearing the number MH-26-BT-2571. Thereafter, they all searched Ashok in the surrounding area. At around 10.30 am, Ashok found dead in a valley in the forest department area of Dabde Shirur Shivar. There was a serious injury on the right side of his head and behind his ear. There were also injuries on his body, including his arms, legs, and back. Thereafter, he called the Mukhed police station and informed them. Report came to be lodged by the informant and upon that report Crime No.0332/2024 came to be registered with the Police Station.

3. Heard learned Advocate Mr Ghanekar for the appellant, learned APP Mr Lomte for respondent No.1/State and Ms Pramila Giri, learned Advocate (appointed) for respondent No.2/informant.

4. Learned Advocate for the appellant submits that, only incriminating material against the appellant is by way of last scene theory and in the entire charge-sheet, the statements of two witnesses have been recorded to state that the appellant had been seen with the deceased on 08/10/2024. One of the said witnesses, namely, Ramakant Maroti Jadhav stated that the deceased alongwith one person had been to his Hotel, however, he does not know that who was the other person

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alongwith the deceased. Another witness, namely, Shankar Panditrao Dawalpure stated that deceased was going on his motorcycle alongwith one unknown person. Mr Ghanekar, learned Advocate for the appellant submits that the other material which is there in the charge-sheet in respect of seizure, however, clothes of the appellant were not stained with blood. Moreover, death has been alleged to be by using stone, the said stone is also not recovered. He further submits that the appellant was arrested on 11/10/2024. Charge-sheet is already filed and the trial will take much time to commence. Therefore, he states that the appellant cannot be kept behind bars for the unknown period. Therefore, he prays for allowing the present appeal by granting regular bail to the appellant.

5. Per contra, learned APP Mr Lomte for respondent No.1/State strongly opposes the appeal. He submits that there is concrete material available on record against the appellant. There is last scene theory. The deceased was seen alongwith the appellant. The motive of committing murder of the deceased by the appellant is very much established in the charge-sheet. He further submits that, if the appellant is released on regular bail, he shall threatened the prosecution witnesses and he also can tamper with the evidence. Thus,

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he prays for dismissal of the instant appeal by rejecting regular bail to the appellant.

6. The learned advocate for respondent No.2/ informant also vehemently opposes the application for grant of regular bail to the appellant. She reiterates the submissions made by the learned APP. She further submits that, if the appellant is released on bail, he will flee and will not be available for trial. She, therefore, prayed for dismissal of the appeal.

7. After having heard the submissions made by the learned Advocates for the respective sides and having perused the investigation papers, it is pertinent to note that, crime was registered against the unknown person. Wife of deceased had admitted that her husband was in habit of drinking liquor. Only incriminating material is last scene theory which appears to be short and not concrete because both of the prosecution witnesses have not supported the prosecution case as regards the 'person' who was with the deceased was only the appellant. Be that as it may, since charge-sheet has already been filed and investigation is completed, the appellant cannot be kept behind bars, till the unknown period. However, apprehension of the learned APP and learned counsel for respondent No.2 can be taken into

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consideration while releasing the appellant on bail by putting strict conditions on the appellant. In that view of the matter, the instant appeal deserves to be allowed by granting regular bail to the present appellant. Hence I pass the following order :-

ORDER

(I) The present criminal appeal is allowed.

(II) The order dated 17/06/2025, passed below Exhibit 16 in Criminal Special Case No.24/2024 by the learned Special Judge [Under SC/ST (PoA)] and ASJ, Mukhed, Mukhed, Tq. Mukhed, Dist. Nanded, is hereby quashed and set aside.

(III) Appellant Naresh Vinayak Ambekar shall be released on bail in connection with C.R. No.0332/2024 registered on 10/10/2024 with Mukhed Police Station, Tq. Mukhed, Dist. Nanded for offences punishable under Sections 103, 238 of the Bharatiya Nyaya Sanhita, 2023 and under Section 3(1)(r), 3(2)(v) 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.

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(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 and he shall attend each and every date, 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 not enter in Mukhed Taluka, Dist. Nanded, till the conclusion of trial, except for attending the each and every date before the Trial Court.

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

8. 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.

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

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10. 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.]

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