



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

CRIMINAL APPEAL NO.726 OF 2025

**VIJU @ VIJAY KISHOR WAYKAR
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS**

...
Shri Joydeep Chatterji, advocate for the appellant.
Shri C.V. Bhadane, APP for respondent Nos.1 and 2/State.
Shri Kunal A. Kale and Shri Nilanjan J. Pande, advocates for
respondent No.3/ informant.

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CORAM : SUSHIL M. GHODESWAR, J.

DATE : 09 December 2025

P. C. :-

1. By this appeal filed under Section 14(A) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989, the appellant/ accused No.4, prays for grant of regular bail in connection with FIR bearing Crime No.0571/2024 registered on 09.11.2024 with Shrirampur Taluka Police Station, District Ahilyanagar, for offences punishable under Sections 103(1), 126(2), 351(2), 351(3), 3(5) and 61(2) of the Bharatiya Nyay Sanhita, 2023 and under Sections 3(2)(v), 3(2)(v-a) and 3(1)(r)(s) of the Scheduled Castes and Scheduled

Tribes (Prevention of Atrocities) Act, 1989 (for short, 'the Atrocities Act').

2. The said FIR was lodged by respondent No.3/ informant on 09.11.2024 alleging therein that his younger brother Rahul Dilip Pimple (deceased) was doing agricultural work and at times, was also involved in gambling activities near the factory gate at Ganesh Nagar. About one month prior to the incident, there was quarrel between the neighbour Akshay Padwal and his brother Rahul and nephew Devendra, therefore, the police complaint was lodged. According to respondent No.3/ informant, on 08.11.2024 at about 07:30 pm, driver on his tractor Rahul Nanasaheb Pawar came to his house and informed him that some persons were assaulting his brother Rahul Dilip Pimple in front of the factory gate and that they were armed with axe and knives. Upon receiving this information, the informant along with his wife and sister immediately proceeded towards the factory. Upon reaching there, the informant saw that his brother Rahul was lying in a pool of blood. They immediately called a vehicle from the village and took him to Saibaba Hospital for medical treatment. However, after examination, the doctor declared that

his brother Rahul had died prior to receiving medical treatment.

According to the informant, he along with Rahul Nanasaheb Pawar went to Rahata Police Station, where two persons were already present. Rahul Pawar identified them and told the informant that those two persons present at the Police Station were the very same persons who had assaulted his brother Rahul Pimple with an axe. Upon inquiry, their names were revealed as Sopan alias Umesh Ramesh Nigle, Aniket Tribhuvan. It was further revealed that Akshay Padwal was also assaulting Rahul at the time of the incident. He stated that all the aforesaid persons have murdered his brother Rahul. It is further stated in the FIR that on 05.11.2024 at about 04:00 pm, when deceased Rahul Pimple and his nephew Devendra Kale were proceeding towards village Ekhurkhe, at that time, the present appellant (Viju Waykar) obstructed their way by parking his vehicle and threatened them of committing their murder. It is further stated in the FIR that the appellant (Viju Waykar) along with other accused Mayur Dethe, Atul Sadafal and Kiran Borde, were frequently holding meetings while sitting at the shop of Mayur Dethe. For the last two to three days, they were seen

standing in front of the high school and had also been issuing threats to his brother Rahul over the phone. Based on these allegations, the said FIR came to be registered.

3. Some of the accused persons were arrested immediately after registration of the FIR. However, the appellant was absconding and has filed Criminal Bail Application No.183/2024 for anticipatory bail, however, it was rejected by the learned Special Judge, Rahata, vide order dated 15.03.2025. Thereafter also, the appellant was absconding and with great efforts, as per the prosecution, he was arrested on 12.05.2025. After completion of investigation, the charge-sheet came to be filed and the case is registered as Special Case No.6/2025 before the learned Special Judge (Atrocity), Rahata, District Ahmednagar. The appellant filed the application below exhibit-30 for regular bail, however, the said application came to be rejected by the impugned order dated 12.09.2025. Hence, this appeal before this Court.

4. Learned advocate for the appellant submits that investigation in the matter is already completed. The statements of eyewitnesses have been deliberately recorded so as to

implicate the appellant. According to learned advocate, the appellant is innocent and he is not involved in commission of the instant offence. In the FIR, the appellant's name is deliberately inserted by respondent No.3/ informant though he was not present on the spot. In view of previous rivalry between the parties, the informant has deliberately implicated the appellant. There is no recovery from the appellant and as such, there is no point in keeping the appellant behind bars for unknown period. According to learned advocate, since *prima facie* case against the appellant is not made out, therefore, he is entitled for grant of regular bail.

5. *Per contra*, learned APP for the State strongly opposed the appeal by submitting that admittedly, there are statements of eyewitnesses recorded by the police, which supports the case of prosecution. The appellant had preferred the application for anticipatory bail and though he was not protected, he was absconding for considerable period and he was arrested after about six months. During this period of six months, he was hiding in other States. Thus, he has not cooperated with investigation. There are three knives and one axe involved in

crime, some of which are yet to be seized. The co-accused Akshay Padwal gave statement under Section 23 of the Bharatiya Sakshya Adhiinyam, 2023 and disclosed the spot of conspiracy hatched by the accused to commit this offence. CDR/ SDR collected during investigation, reveals that at the time of offence, all the accused were present in the same locality. The accused have committed brutal murder by inflicting 39 bleeding injuries. If the appellant is released on bail, there is likelihood that he may tamper evidence and threaten the prosecution witnesses. Therefore, the appeal be dismissed.

6. I have also heard the learned advocate for respondent No.3/ informant, who has adopted the submissions of the learned APP and has strongly opposed the appeal. He specifically stated there are statements of eyewitnesses recorded by the police, which clearly disclose the role of the present appellant and the weapon used by him. The FIR cannot be considered as an encyclopedia of the incident. There is brutal murder committed by the appellant and other accused, therefore, no leniency should be shown towards the appellant. Learned advocate, therefore, prayed for rejection of the appeal.

7. After considering the submissions advanced on behalf of the parties, I have gone through the entire charge-sheet minutely, which discloses that occurrence of offence was from 19:30 hours to 19:45 hours on 08.11.2024 and the FIR was lodged on 09.11.2024 at 01:19 hours. The Police Station is 15 kilometers away from the place of incident. Naturally, time was consumed in taking the deceased to the hospital and due to brutal murder, family members must have been in shock, therefore, there was delay of about four hours, which is not major and also not fatal to the prosecution. Moreover, the FIR is not an encyclopedia to describe each event. The police authorities have recorded the statements of all eyewitnesses and the supplementary statement of the informant on the very same day i.e. on 09.11.2024. When the statements of so many eyewitnesses were recorded immediately after occurrence of incident, then, there is very less chance of false implication of the accused persons.

8. After the incident, the deceased was taken to the hospital, where he was declared to be brought dead. Thereafter, the postmortem was conducted and the Medical Officer has

recorded as many as 39 injuries on the person of the deceased Rahul. On perusal of medical report, it is revealed that the said injuries are mostly chop wounds, incised wounds and stab wounds and no part of the body of the deceased was found without injury. The doctor opined that the death was due to injuries to vital organs. The said injuries are possible by the weapons used by the accused persons and the eyewitnesses have stated that the present appellant was carrying knife. Eyewitness Rahul Pawar in his statement recorded on 09.11.2024 stated that the appellant along with other accused persons were beating/ assaulting the deceased mercilessly (दिसेल त्या ठिकाणी मारत होते, English meaning 'they were beating him wherever they could'). At this stage, *prima facie*, it is seen that the medical evidence is corroborated with the statements of eyewitnesses. There is strong incriminating material available against the appellant to connect him with the offence. The statements of eyewitnesses recorded by the police disclose that the appellant was carrying weapon knife and he was not only present on the spot of incident, but was also assaulting the deceased mercilessly. Therefore, the role attributed to the appellant is serious in nature. On the basis of the statements of the accused recorded by the police during

investigation, some of weapons used in crime were recovered at their instance.

9. It is to be noted here that the incident took place on 08.11.2024 in the evening and accused Nos.1 and 2 came to be arrested on 09.11.2024 itself. However, accused Nos.3 and 4 (appellant) were absconding for considerable period. When the police came to know that accused No.3 was hiding at Pune, he was arrested from Pune. Accused No.3 after his arrest on 12.11.2024 disclosed to the police that he had used one knife and same was recovered at his instance. The arrested accused have not disclosed to the police as to where the knives used by accused Nos.2 and 4 have been hidden. The present appellant, though had filed the application for anticipatory bail, but admittedly, he was not granted ad-interim protection, still he was absconding. His anticipatory bail application was rejected by the Sessions Court on 15.03.2025. Thereafter, the police were required to obtain the information about whereabouts of the appellant from secret informers and based on the information given by the secret informers to the police, it came to know that the appellant had fled to the State of Uttar Pradesh. Therefore,

one team of police was sent to arrest the appellant and it was disclosed by the friend of the brother of the appellant, namely, Anand Rajput that the appellant had come to meet him and had stayed with him for four to five days. Thereafter, on 01.10.2025, the police got information on the basis of the CDR that the appellant had been to Delhi Railway Station. When the Police were equipped with the arrest warrant from the Sessions Court, the appellant appeared before the Sessions Court and he was arrested on 12.05.2025 after informing him the grounds of arrest and after complying with the guidelines issued by the Hon'ble Supreme Court as regards communicating the grounds of arrest. Thus, the appellant was absconding and was playing hide and seek with law.

10. After arrest of the appellant on 12.05.2025, he was in PCR till 17.05.2025, however, during all this period, the appellant has not at all cooperated with investigation. Though there are statements of eyewitnesses and the recoveries at the instance of other co-accused and also the medical papers, still the appellant has virtually given evasive answers to the police. The appellant has not disclosed the knife and vehicle used by him in

commission of offence. So also, he has not disclosed the place of conspiracy hatched by accused persons to eliminate the deceased Rahul. The appellant has not produced the clothes wore by him at the time of commission of offence. Thus, there is no cooperation by the appellant and on the contrary, he is giving evasive answers. In view of the above, there is lot of incriminating material against the appellant.

11. Apart from the gravity of the offence, the conduct of the appellant during investigation clearly establishes that though there was necessity of custodial interrogation and continued custody for recovery, the appellant remained absconding for a considerable period despite rejection of his application for anticipatory bail and was apprehended only after continuous efforts by the investigating agency with the assistance of secret informers and technical evidence. Even after his arrest and while in police custody, the appellant has not cooperated with the investigation and has given evasive answers. Crucial recoveries including the weapon used by him, the vehicle utilized in the commission of crime, his clothes worn at the time of incident and the place where the conspiracy was hatched, are yet to be

effected at his instance. It is well settled that where the accused is not cooperating and vital information is required to be unearthed, the bail should be refused to such accused and particularly when the accused was absconding for a considerable period.

12. Considering the above and the manner in which the appellant and other accused persons have mercilessly murdered the deceased by inflicting 39 injuries, at this stage, I am not inclined to grant bail to the appellant. **The instant Criminal Appeal is rejected.**

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(SUSHIL M. GHODESWAR, J.)