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

32 CRIMINAL APPEAL NO. 135 OF 2025

SANTOSH UDDHAVRAO JAGTAP

....Appellant

VERSUS

THE STATE OF MAHARASHTRA AND ANOTHER

.....Respondents

Mr. S. J. Salunke, Advocate h/f Mr. R. R. Kale, Advocate for the
appellant

Smt. A. S. Deshmukh, APP for the respondents/State

Mr. Vanita H. Sangole, Advocate h/f Mr. Mayuri Kasturkar,
Advocate for respondent No.2 (appointed)

CORAM : KISHORE C. SANT, J.

DATE : 10th JUNE, 2025

P. C.

1. This appeal arises out of the judgment and order dated 15-01-2025 passed below Exh. 4 by the learned Special Judge [SC and ST Act], Aurangabad in Special Case No. 715/2024 thereby refusing grant of bail to the appellant. The appellant is shown as an accused in the crime registered with the Karmad Police Station, Chh. Sambhajinagar bearing Crime No. 372/2024 for the offences punishable under Sections 103

(1), 238, 3(5) & 61(2) Bhartiya Nya Sanhita and Sections 3(2) (v) of the Atrocities Act.

2. The informant lodged First Information Report with the Karmad Police Station. It was stated that on 08-09-2024 his brother Rarjesh the deceased left the house at 4.00 pm telling his wife that he is going to Zalta Phata. However, thereafter phone was switched off and no contact is established. His wife Komal who was pregnant came to the police station and lodged the missing complaint on 10-09-2024. It was informed that beheaded body of the deceased was found in the vicinity of villae Pimpalgaon, Pandhari, Dist. Chh. Sambhajinagar. The compliant was thus lodged against the unknown person. Later on, Komal gave a statement to the Police Station under Section 183(5) of B.N.S.S. on 26-09-2024. She stated that on 08-09-2024 the deceased received a phone call and left the house. After half and hour when she contacted on phone, he told that he was near Zalta Phata and will come back within half and hour and disconnected the phone. Within fifteen minutes

thereafter, when she again tried to call, phone of the deceased was switched off. She gave another statement wherein she stated that the deceased told her that he had some dispute with the present appellant and Datta. In that dispute they abused the deceased in the name of caste and had threatened to kill him. In that statement for the first time, she expressed the suspicion about the present appellant. It is on that basis the appellant came to be arrested on 11-09-2024. She stated that because of enmity and previous dispute that offence is committed. In the statement again she expressed suspicion against the appellant.

3. The learned advocate Mr. Salunke, vehemently argued that there is no direct evidence of involvement of the appellant. He is apprehended merely on the basis of suspicion expressed by the wife of the deceased. Though there are statements of the two hotel owners and that they had seen the deceased lastly with the accused persons, there is no concrete evidence. They had only recognized the deceased who came to the hotel alongwith two other persons. Identity of those persons

is not duly established. He further submits that though there is injury certificate showing that injuries found on the person of the deceased are much prior to the alleged incident and this is insufficient to connect the accused persons with the alleged offence.

4. The learned APP so also the learned Advocate for the respondent No.2 vehemently opposed the appeal. They submitted that offence is serious in nature and grave. A murder is committed in brutal manner. The body was found beheaded. Though there is no direct evidence, circumstances clearly show the guilt of the present appellant. The accused and the deceased were lastly seen together in the hotel near Zalta Phata. There are statements of two hotel owners. Knife was also stolen from one of the hotel. Said knife was also recovered at the instance of present appellant which clearly shows the involvement of the appellant. Thus, lastly seen together and the recovery at the instance of the appellant makes out a clear case that the appellant does not deserve bail. The offence is committed

because of the dispute as is clear from the statement of the wife of the deceased.

5. Having heard the parties, and the circumstances appearing against the appellant theory with the appellant lastly seen together. Exact time of last seen is not clear. Though hotel owners and cooks have given statement that three persons came to the hotel, they identified only deceased and not the appellant. In their statements they only stated that they would be in a position in identify the persons accompanying deceased, if those two persons are shown. Thus, last seen together at this stage need not be considered. So far as recovery is concerned at this stage only because of recovery, it cannot be said that the custody is now required. The statements of hotel owners are appear only on the circumstantial evidence. The appellant is in jail since 11-09-2024. The charge-sheet is already filed. Considering above, this court is inclined to allow the appeal. Hence, the following order:

ORDER

- a] The Criminal Appeal is allowed.
- b] The order dated 15-01-2025 passed below Exh. 4 by the learned Special Judge [SC and ST Act], Aurangabad in Special Case No. 715/2024 is quashed and set aside.
- c] The applicant be released on bail on furnishing PR bond in the sum of Rs.25,000/- [Rupees Twenty Five Thousand Only] with one solvent surety in the like amount on the following conditions:
 - i] The appellant shall not enter in Chh. Sambhajinagar District except for attending the dates of the court.
 - ii] The appellant shall give his contact details such as address and mobile number to the concerned Investigating Officer.
 - iii] The appellant shall not contact the

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informant and any of the witnesses.

iv] The appellant shall attend the police station as and when called by the Investigating Officer.

D] Respondent No.2 is appointed by this court. This court appreciates her efforts in assisting the court. Her fees be paid as per rules.

[KISHORE C. SANT, J.]

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