

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO. 454 OF 2025

Akash Rajesh Jaiswal

.... Appellant

V/s.

The State of Maharashtra & Anr.

.... Respondents

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Mr.Vinod Kashid, for the Appellant.

Ms.Ranjana D. Humane, APP, for Respondent-State.

Mr.Sumedh Modak, for Respondent No.2.

Mr.Sabaji Naik, PI, Kolsewadi Police Station, Kalyan.

CORAM : SHIVKUMAR DIGE, J.

DATE : 16th JUNE 2025

P.C:-

. The Appellant is seeking regular bail, in connection with investigation of Crime No.527 of 2023 registered with Kolsewadi Police Station, for the offences punishable under Sections 302, 363, 364, 141, 143, 145, 147, 148, 149, 109, 114, 506(2) and 120(b) of the Indian Penal Code, 1860 ('IPC' for short) read with under Section 3(2)(b) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 ('SCST Act' for short).

2. It is prosecution's case that, due to old dispute with the Applicant and co-accused and on the say and instigation of the Applicant on 18th August 2023 around 2.30 to 3.00 p.m., the co-accused and the Appellant abducted the deceased on motorcycle and assaulted him with iron and wooden rod and killed him.

3. It is contention of the learned counsel for the Appellant that, the Appellant has been falsely implicated in this case. As per prosecution's case on the day of the incident, the deceased was with witness Bharat Tiwari. The statement of witness - Bharat does not show name of the Appellant in involvement of crime. The learned counsel further submitted that, the witness Prathamesh Pawar before whom alleged dying declaration is given by the deceased, in the said dying declaration the deceased has not taken name of the Appellant. The Appellant is behind bar for more than 1 and 1/2 years. Investigation is completed. The charge-sheet has been filed. Hence, requested to allow the Appeal.

4. It is contention of the learned APP and learned counsel for the Respondent No.2 that, the Appellant is the main conspirator. The Appellant had old dispute with the deceased on that count he had threatened the deceased that he would kill him. Accordingly, on the say of the Appellant co-accused abducted and assaulted deceased with weapon. The Appellant had participated in assaulting the deceased. The CCTV footage shows presence of the Appellant at the incident spot. If Appellant is released on bail he may threaten the prosecution witness. The learned APP further submitted that, the CDR of the Call records of the Appellant and co-accused shows that they were in contact on the day of the incident. Hence, requested to dismiss the Appeal.

5. I have heard all learned counsels. Perused charge-sheet and impugned order.

6. As per prosecution's case, when the deceased was going on motorcycle with witness - Bharat Tiwari, he was intercepted by the co-accused. They abducted him on motorcycle and killed him by assaulting with iron and wooden rod. In the statement of Bharat Tiwari recorded by the Police, he has not

stated name of the Appellant. As per prosecution's cases when the deceased was injured at that time his friend Prathamesh Pawar met him and shifted him to hospital. The deceased told this witness about assault on him and he has specifically stated who had assaulted him. The deceased has not taken name of the Appellant. As per prosecution's case, the Appellant was in contact with the co-accused and instigated them to kill the deceased and he was part of the conspiracy. In my view to prove conspiracy, evidence is required. The Appellant is behind bar for more than 1 and 1/2 years. Investigation is completed. The charge-sheet has been filed.

7. Considering above reasons, further detention of the Appellant is not required and I pass following order.

ORDER

- (i) The Appeal is allowed.
- (ii) The Appellant-Akash Rajesh Jaiswal be released on bail in Crime No.527 of 2023 registered with Kolsewadi Police Station, on

executing a P.R. Bond in the sum of Rs.30,000/-
with one or two sureties in the like amount.

(iii) The Appellant shall attend the Kolsewadi
Police Station once in three months between 11.00
a.m. to 1.00 p.m. till disposal of the trial.

(iv) The Appellant shall not enter Kalyan
Taluka till recording of evidence of eye witnesses,
except attending Court dates.

(v) All pending Applications are disposed of.

(SHIVKUMAR DIGE, J.)