



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR

CRIMINAL APPEAL NO. 151 OF 2025

APPELLANT

Bharatsingh @ Paji s/o Himmatsingh
Andhrele, Aged about 26 years,
R/o Sardar Mohalla Panchavati, Katol,
Tah. Katol, District Nagpur presently
at Central Prison, Nagpur.

-VERSUS-

RESPONDENTS

1. The State of Maharashtra,
through Police Station Officer,
Police Station Katol, District Nagpur.
2. Gopi s/o Ashok Tayde,
Aged about 26 years, near Hanuman
Temple, Katol, District Nagpur.

Mr. R.M. Daga, counsel for appellant.
Mr. C.A. Lokhande, APP for respondent/State.
Mr. Aniruddha Anantkrishan, counsel (appointed) for respondent
No.2.

CORAM : **URMILA JOSHI-PHALKE, J.**
DATE : **25/07/2025**

ORAL JUDGMENT :

1. Heard.

2. **Admit.** Heard finally with the consent of learned counsels appearing for the parties.

3. By preferring this appeal filed under Section 14-A, the appellant has challenged the order passed by the Additional Sessions Judge and Special Judge under the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 (hereinafter referred to as 'the Act of 1989'), in Criminal Bail Application No. 3791/2024, by which the application of the present appellant is rejected.

4. The appellant was arrested on 06/11/2024 in connection with Crime No. 969/2024, which was registered on the basis of a report lodged by Gopi Ashok Tayade, on an allegation that on 05/11/2024, when he was present in the house, he received a phone call from the present appellant, and the present appellant called him to play the gamble, and therefore, he along with the deceased went. They consumed the liquor together, and thereafter, there was communication between the deceased and the present appellant. The deceased was teasing the present appellant. At about 12.30 p.m. they dropped down from the vehicle at Sardar Mohalla near one bridge, wherein again there

was a hot exchange of words between the deceased and the present appellant, and being annoyed with the deceased, the present appellant took out the stone that was lying there and pelted it on the head of the deceased. Due to which, the deceased sustained the head injury and succumbed to death. On the basis of the said report, police have registered the crime against the present appellant.

5. Heard learned counsel for the appellant, who submitted that admittedly the recitals of the FIR and the statements of the eyewitnesses shows that there was no intention or any motive to cause the death of the deceased. On the contrary, the deceased and present appellant were together; they gambled together. Thereafter, they consumed the liquor, and after consuming the liquor, there was a hot exchange of words, as the deceased was teasing the present appellant. Thus, the act of the deceased comes under grave and sudden provocation, as well as there was sudden fight and sudden quarrel between both of them. Therefore, at the most, the act of the present appellant is covered under Section 302 Part-II of the Indian Penal Code, 1860, which covers culpable homicide and not amounting to murder. He

submitted that now the investigation is already completed, the charge sheet is already filed, the trial court has not taken into consideration this aspect, and it has erroneously rejected the application.

6. Learned APP and learned counsel for the respondent No.2/victim strongly opposed the said application on the ground that the appellant has took out the stone and, with an intention to cause his death, pelted him on his head. Death of the deceased is due to the head injury. Thus, considering the statements of the eyewitnesses, which disclose the intention on the part of the present appellant, and therefore, prima-facie case is made out against him, and in view of that, the appeal deserves to be dismissed.

7. Having heard learned counsel for the appellant and learned APP as well as learned counsel for the victim/complainant and perused the investigation papers, it reveals that the deceased died due to a head injury, which was allegedly caused by the pelting of the stone by the present appellant. During the investigation, the statements of the eyewitnesses are recorded, which reveal that both the deceased and the appellant were

together playing gambling as well as consuming the liquor thereafter; there was teasing amongst them, and out of that teasing, the hot exchange of words took place between them. The present appellant took out the stone, which is weighing of 1 kg and pelted it on the head of the deceased, due to which the death of the deceased was caused. Thus, suddenly the alleged incident has taken place as far as the act of the present appellant is concerned, admittedly, he was not armed with any weapon. No overt-act is attributed to him. Thus, prima-facie it appears that, in a sudden fight and sudden quarrel, the appellant took out the stone and assaulted the deceased, which proved to be fatal. Whether the act of the present appellant is culpable homicide amounting to murder or not amounting to murder, is a matter of evidence. At this stage, considering the investigation is already completed, the act of the present appellant which is committed by him during the sudden fight and sudden quarrel. Therefore, the appellant has made out a case for grant of bail, in view of that, I proceed to pass the following order.

ORDER

- a] The criminal appeal is **allowed**.

- b] The order passed by the Special Judge, Nagpur in Criminal Bail Application No. 3791/2024 is hereby quashed and set aside.
- c] The appellant – ***Bharatsingh @ Paji s/o Himmatsingh Andhrole***, shall be released on bail, in connection with Crime No. 969/2024 registered at Police Station Katol, District Nagpur for the offence punishable under Sections 103(1) of BNS and under Sections 3(1)(2) and 3(2)(v) of the The Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989, on executing PR. Bond of Rs. 50,000/- with one solvent surety in the like amount.
- d] The appellant shall not enter into the jurisdiction of Katol Police Station till culmination of the trial.
- e] The appellant shall furnish his detailed address along with the address proof where he is intending to reside after he is released on bail.
- f] The appellant shall attend the proceedings before the Special Court without seeking any exemption

unless there are exceptional circumstances.

- g] The appellant shall not induce, threat or promise any witnesses, who are acquainted with the facts of the case either physically or through electronic media.
- h] The fees of the appointed counsel be quantified as per Rule.

Criminal appeal is **disposed of** accordingly.

[URMILA JOSHI-PHALKE, J.]