



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

CRIMINAL APPEAL NO.682 OF 2024

Syed Afroz Syed Kadir
Age 30 Years,
Occ: Labour
R/o Shingnapur, Post Shaha,
Tq. Karanja, Distt. Washim

...APPELLANT

VERSUS

1. The State Of Maharashtra,
through Police Station Officer,
Police Station Karanja (Rural),
Tq. Karanja, District Washim
2. Mukesh Digambar Bhosle
Aged about 45 years,
R/o Shingnapur, Karanja Lad,
Karanja Gramin,
Distt. Washim, Maharashtra

...RESPONDENTS

Mr. Z.Z. Haq, Advocate for the appellant.
Mrs. M.A. Barabde, APP for the State.
Ms P.S. Kaware, Advocate for respondent No.2.

CORAM : URMILA JOSHI-PHALKE, J.

DATED : MARCH 5, 2025.

ORAL JUDGMENT :

ADMIT. Heard finally with the consent of learned Counsel
for the parties.

2. By preferring this appeal, the appellant has challenged the order passed by the Additional Sessions Judge, Mangrulpir dated 12/11/2024 in Criminal Bail Application No. 183/2024 by which the application of the present appellant for grant of anticipatory bail is rejected.

3. The appellant is arraigned as an accused in connection with Crime No.386/2024 for the offence punishable under Section 103(1), 189(2), 191(2), 191(3), 190, 79, 351(2) of the Bharatiya Nyaya Sanhita, 2023 and Sections 3(2)(va), 3(2)(v) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989.

4. The crime is registered on the basis of report lodged by Mukesh Digambar Bhosale on an allegation that on 01/10/2024, the present applicant and other co-accused abused and quarrelled with the informant and his family members. On the same day at about 7:00 PM one Shivmangal was assaulted by the present applicant, and the other co-accused, who subsequently reported to be dead. On the basis of the said report police have registered the crime against the present appellant and other co-accused.

5. Learned Counsel for the appellant submitted that as far as the role of the present appellant is concerned general allegation is levelled. In fact, he was not present at the spot of incident. He is a truck Driver and due to his job, he was out of the town on that day. He further submitted that omnibus allegation is levelled against the present appellant, and therefore, the bar under Section 18-A of the Atrocities Act will not attract. As far as the custodial interrogation is concerned which is not required as no specific role is attributed to the present appellant, and therefore, nothing is to be recovered from him. Other co-accused are already released on bail. In view of that, he be released on anticipatory bail.

6. Learned APP and learned Counsel for the informant strongly opposed the application on the ground that present appellant and other co-accused who have assaulted the deceased by fist and kick blows as well as the stick was used. Said incident was witnessed by the eye-witnesses and the injured subsequently succumbed to the death due to the head injury. Thus, all the accused including the present appellant caused the death of the deceased, which is caused in furtherance of the common intention. In view of that, the appeal deserves to be rejected as bar under Section 18-A of the Atrocities Act will attract.

7. I have heard learned Counsel for both the sides. On perusal of the entire investigation papers it reveals that the death of the deceased is caused due to the head injury. As per the allegations, there was a previous dispute between the present appellant, informant and his family members. On that count, on the day of incident, there was a quarrel in the morning at about 8:00 AM and on the same day at about 7.00 PM the deceased Shivmangal was assaulted by the present applicant and the other co-accused. On going through the entire investigation papers, the specific role of the present appellant reveals as to the assault, and therefore, in view of Section 18-A of the Atrocities Act bar will attract.

8. Considering the facts and circumstances of the present case and in view of the bar under Section 18-A of the Atrocities Act, the appeal has no merits and deserves to be dismissed.

9. Hence, the appeal is hereby dismissed.

(URMILA JOSHI-PHALKE, J.)