



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

CRIMINAL APPEAL NO. 741 OF 2024

APPELLANT

Dipak s/o Narendra Khobragade,
Age about 21 years, Occu: Labour,
R/o Ward No.2, Durgapur, District
Chandrapur.

-VERSUS-

RESPONDENTS

- 1] State of Maharashtra through, Police
Station Officer, Police Station Durgapur,
District Chandrapur.
- 2] Pankaj s/o Ramesh Watekar,
Aged about Adult, Occu: Nil,
R/o Nehru Nagar, Durgapur, District
Chandrapur.

Mr. A.C. Jaltare, counsel for appellant.
Mr V.A.Thakre, APP for respondent/State.
None for respondent No.2.

CORAM : **URMILA JOSHI-PHALKE, J.**
DATE : **17/03/2025**

ORAL JUDGMENT :

1. Heard.
2. **Admit.** Heard finally with consent of learned counsels

appearing for the parties.

3. Though respondent No.2 is served, none appeared on behalf of respondent No.2.

4. By preferring this appeal, the appellant has challenged the order passed by the learned Special Judge, Chandrapur, rejecting the application of the present appellant for grant of bail.

5. The appellant came to be arrested on 08/11/2022 in connection with Crime No.189/2022 registered with Police Station, Durgapur, District Chandrapur, for the offences punishable under Sections 143, 147, 148, 302, 427, 120-B, 212 of the Indian Penal Code and under Sections 3(2)(v), 3(2)(va) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 (hereinafter referred to as 'the Act of 1989') and Sections 4 and 25 of the Indian Arms Act and Section 135 of the Maharashtra Police Act.

6. As per the allegations against the co-accused, on 07/11/2022, deceased Mahesh Meshram consumed liquor with his friend, namely Lala, at Emali Bar Restaurant, Durgapur, and thereafter, while leaving the restaurant, the deceased was attacked

by 6 to 7 persons with deadly weapons due to the prior enmity between them. At the relevant time, the deceased attempted to save himself and ran towards the car, but all accused persons killed him with deadly weapons. The friend of the deceased tried to rescue him, but the car was damaged by the accused persons. As far as the present appellant is concerned, it is alleged that he was present and the member of unlawful assembly, and in furtherance of the common object of that assembly, he eliminated the deceased. It is alleged that the present appellant took all the accused persons in the car and helped them to screen themselves from the punishment of the offence which they had committed.

7. After registration of the crime, the appellant approached the learned Special Court for grant of bail, which was rejected, hence this appeal.

8. Heard learned counsel, Mr. Jaltare for the appellant. He submitted that the allegations against the present appellant are similar to those against the co-accused, who has already been granted bail by the Court. He submitted that, during the investigation, the statements of the eyewitnesses were recorded, in which neither the name of the present appellant was revealed nor

the description was given by any of the eyewitnesses of the present appellant. The clothes of the present appellant is also seized by the investigating agency, but no bloodstains are found on his clothes. During the investigation, the appellant was also placed for the Test Identification Parade, but none of the eyewitnesses have identified. The allegations made against the present appellant are on the basis of the general diary entry that he is the person who assisted the other co-accused to screen themselves from punishment by fleeing away from the spot of the incident. Thus, at the most, the allegations against the appellant may attract Section 212 of the Indian Penal Code, 1860, which is a bailable offense, even though the major offenses are punishable by capital punishment. Section 212 of the Indian Penal Code, 1860, is for harbouring the offence. He submitted that allegation is also on the basis of the statement of the co-accused. Except the statement of the co-accused, there is no other material to show that the present appellant assisted the other co-accused for fleeing away from the spot of the incident. As far as the criminal antecedents are concerned, no material is placed before the Court to show that he involved in any crime other than the present one. Thus, considering the nature of the evidence, the appellant be released on bail, as the investigation is

already completed and charge-sheet is filed.

9. Learned APP strongly opposed the said appeal on the ground that in a very brutal manner, the deceased was eliminated by the present appellant and the other co-accused. It was further contended that the manner in which the alleged offence is committed and the role played by the present appellant is harbouring the criminals to screen themselves from punishment. In view of that, the appeal deserves to be rejected.

10. After hearing both sides and on perusal of the investigation papers, admittedly, the name of the present appellant is not mentioned in the FIR. After going through the entire charge-sheet with the help of the learned APP and learned counsel for the appellant, it reveals that the role attributed to the present appellant is exactly similar to the other co-accused, Siddarth Aadesh Bansod, who is already released on bail by this Court. As far as his involvement is concerned, neither the informant nor the eyewitnesses have named him in the statement. His arrest is only on the basis of the statement of the co-accused. Though there are eyewitnesses of the said incident, they have not identified the present appellant as an assailant and nowhere stated that the

present appellant was present at the time of the incident. Thus, considering the nature of the evidence against the present appellant, he has made out a case for grant of bail. In view of that, the appeal deserves to be allowed. Accordingly, I proceed to pass following order:

ORDER

- a] The appeal is allowed.
- b] The order dated 29/07/2024 passed by the learned Special Judge, Chandrapur rejecting the bail application is quashed and set aside.
- c] The appellant – Dipak Narendra Khobragade, shall be released on bail in connection with Crime No.189/2022 registered with Police Station, Durgapur, District Chandrapur, for the offences punishable under Sections 143, 147, 148, 302, 427, 120-B, 212 of the Indian Penal Code and under Sections 3(2)(v), 3(2)(va) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 and Sections 4 and 25 of the Indian Arms

Act, and Section 135 of the Maharashtra Police Act, on executing PR Bond in the sum of Rs.50,000/- with one solvent surety in the like amount.

- d] The appellant shall not leave the jurisdiction of Chandrapur District without prior permission of the District Court, Chandrapur.
- e] The appellant shall not enter into the jurisdiction of Durgapur Police Station, till culmination of the trial.
- f] The appellant shall not induce, threat or promise any witnesses who are acquainted with the facts of the case.

11. The criminal appeal is **disposed of**.

[URMILA JOSHI-PHALKE, J.]