



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

CRIMINAL APPEAL NO. 220 OF 2025

Shri Sandip S/o Namdeo Raut,
Aged about 44 Years, Occ. Labour,
R/o Ward No.1, Ambedkar Ward, Arvi
Tq. Arvi, Dist. Wardha. **APPELLANT**

Versus

1. State of Maharashtra,
Through Police Station Officer Arvi,
District Wardha.
2. Shri Rahul Gyaneshwar Wahane,
Aged about 31 Years, Occ. Business,
R/o Ambedkar Ward, Wardha Road
Arvi, Dist. Wardha . **RESPONDENTS**

Smt. Archana P. Murrey, Advocate for the Appellant.
Ms. Mrunal Barabde, APP for the Respondent No.1/State.
Mr. Viren V. Joshi, Advocate (Appointed) for the Respondent
No.2.

CORAM : URMILA JOSHI PHALKE, J.

DATED : 20th AUGUST, 2025.

ORAL JUDGMENT :-

1. Heard.

2. ADMIT.

3. By preferring this Appeal the Appellant has challenged the order passed by the Additional Sessions Judge, Wardha in Misc. Cri. Bail Appl. No.438/2024 rejecting the Application for grant of bail.

4. The facts of the prosecution case in nutshell are as under:

4(i). The Appellant came to be arrested on 21.05.2022 in connection with Crime No.429/2022 registered under Sections 302 and 307 read with Section 34 of the Indian Penal Code and under Section 3(2)(v) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989. The informant who is the brother of the deceased has lodged report on 21.05.2022 that he alongwith his father Dnyaneshwar and the deceased were residing together. Prior to some days his brother met with an accident, due to the speed breaker, when he was travelling on his motorcycle. For the said accident, he was treated in Medical College and he has sustained the serious injuries on his head, due to which he has to undergo an

operation. It is further alleged that on 18.05.2022 at about 9.00 a.m., when he woke up in the morning, his brother was at house and thereafter, when he returned back at that time also his brother was sleeping. Thereafter, he came to know that his brother admitted to the Hospital at Arvi. He immediately rushed to the Hospital. He subsequently, came to know that his brother was assaulted by the present Appellant and the other co-accused. During treatment, his brother succumbed to the death. On the basis of the said report, Police have registered the crime against the present Appellant and the other co-accused.

4(ii). During the investigation, the eye witness came forward to disclose that on 17.05.2022 at about 12 a.m., in the midnight, he was sleeping in the courtyard of his house. At the relevant time, he witnessed the quarrel between the deceased and the present Appellant. The present Appellant assaulted him by means of fist and kick blows and smashed his head on the cement road. Due to which, the deceased has sustained the grievous injuries and succumbed to the death.

5. Heard learned Counsel for the Appellant, who submitted that the other co-accused is already released on bail.

Thus, on the ground of parity the present Appellant deserves to be released on bail. She further submitted that, the investigation is already completed and charge-sheet is already filed further incarceration of the present Appellant is not required, and therefore, he be released on bail.

6. Learned APP for the Respondent No.1/State and learned appointed Counsel for the Respondent No.2/Informant strongly opposed for the same. Learned APP submitted that, statements of eye witness namely Rajendra Madhukarrao Tayawade and Subhash Dadarao attributes the role of the present Appellant that it was the present Appellant who has initiated the quarrel and thereafter assaulted the deceased and also smashed his head on the cement road, due to which he has sustained the injuries. The medical treatment papers are also on record which shows that though he was treated immediately but he has sustained the grievous injuries in the said incident, and therefore, he could not be survived. Thus, as far as the role of the present Appellant is concerned, she submitted that which is not identical with the other co-accused who is already released on bail.

7. Learned Counsel for the Respondent No.2/Informant has also reiterated the same contention and submitted that the statements of witnesses discloses that it was the present Appellant who has initiated the quarrel, and therefore, the role attributed to the present Appellant and the other co-accused are not identical one. In view of that, the Application is rightly rejected by the Trial Court and no interference is called for.

8. On hearing both the sides and on perusal of the entire investigation papers, there is no dispute as to the fact that the death of the deceased is caused due to the injuries sustained by him, in all 8 injuries are sustained by the deceased in the said incident. The death of the deceased is due to the injury sustained by him in the said incident. The statements of the eye witnesses also show that it was the present Appellant who has initiated the quarrel and assaulted the deceased though he was aware that the deceased has met with an accident previously and sustained the head injury. The Appellant was also knowing that the deceased belongs to Scheduled Caste. Thus, the offence under Sections 302 and 307 of IPC are already made out against

the present Appellant and the bar under Section 18 will also attract in the present case. In view of that, the Appeal deserves to be dismissed. Accordingly, I proceed to pass the following order:

ORDER

- i. The Appeal is **dismissed**.
 - ii. The order passed by the Additional Sessions Judge and Special Judge, Wardha in Misc. Cri. Bail Appl. No.438/2024 rejecting the Application for grant of bail, is hereby confirmed.
9. Fees of the learned Appointed Counsel be quantified as per rules.
10. Pending application/s, if any, shall stand disposed of accordingly.

(URMILA JOSHI PHALKE, J.)