



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

CRIMINAL APPEAL NO. 580 OF 2025

Chandrasah @ Raj Subhash Ubale ... **Appellant**
Age 23 years, Occu: Labourer
R/o Sukhdeonagar, Below Gangotri Niwas,
Dondemala, Pathardigaon, Nashik.

VERSUS

1. The State of Maharashtra
Though Police Station Officer,
Shirdi Police Station, Dist. Ahmednagar
2. Sanjay s/o Madhukar Pawar, ... **Respondents**
Aged 45 years, Occu: Labourer
R/o Rajgurunagar, Shirdi
Tq. Rahata, Dist. Ahmednagar

Mr. Nitin R. Bhavar, Advocate for the Appellant
Mr. V. M. Chate, APP for the Respondent State
Ms. Smita Chole-Kendre, Advocate for Respondent No.2-Appointed

CORAM : Y. G. KHOBRAGADE, J.

DATE : 27.01.2026

JUDGMENT:-

1. By the present Appeal under section 14-A of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989, the appellant/original accused takes exception to the order dated 05.07.2025 passed by the learned Special Judge, Rahata, District Ahmednagar, thereby, declined to grant regular bail to the present appellant in connection with the Crime No. 237 of 2021 registered with Shirdi Police

Station, District Ahmednagar for the offences punishable under sections 302, 307, 120-B, 201 read with section 34 of the Indian Penal Code, 1860 (for short 'IPC') and under Sections 3(2)(va) and 3(2)(v) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 (for short 'SC & ST Act').

2. It is the case of the prosecution that, on 29.06.2021, the informant/respondent No.2 lodged an FIR with Shirdi Police Station alleging that on 29.06.2021, at about 6.30 p.m. after completion of centering work of building of Shri Bhansali at Chitali Road, Rahata, he and his cousin Rajendra were returning to their house on motorcycle. At about 7.30 p.m., they stopped at an open space near Palacias Hotel and consumed liquor. At that time, four unknown persons, aged about 18 to 20 years, arrived on two motorcycles and asked them for a matchbox. The informant told them that he did not have a matchbox, however, his cousin Rajendra was having a matchbox, which was kept on the seat of the motorcycle, and he asked them to take it. Since the matchbox was not given immediately and not handed over to them, they stared angrily at Rajendra and thereafter took the matchbox and went to the backside. Thereafter, suddenly two accused came with sharp-edged weapons and assaulted Rajendra on his head and abdomen as well on his cast. Seeing this, the informant ran away from the spot out of fear. Thereafter, the accused left the spot. The informant then

immediately returned to the spot and took the injured to the hospital, where, during the course of treatment, he succumbed to the injuries and died. On the basis of said oral report the Crime No. 237 of 2021 registered with Shirdi Police Station, District Ahmednagar for the above offences. During the course of investigation, the present appellant accused came to be arrested on 10.07.2021. Thereafter, other accused are also arrested.

3. Needless to say that, earlier the present appellant accused had moved two applications seeking bail but those are rejected. On 01.08.2023, the learned Special Court passed an order and rejected the second application. Therefore, the appellant accused had preferred appeal before this Court bearing Criminal Appeal No. 152 of 2024, however, the said appeal came to be rejected on 22.07.2024. Thereafter, the present appellant accused again moved 3rd bail application at Ex. 204 in Special Case No. 118/2024, however, on 05.07.2024, the learned Special Court passed the impugned order and rejected the said bail application. Being aggrieved by the same, the appellant accused has preferred the present appeal.

4. The learned counsel appearing for the appellant/accused canvassed that the offence in question allegedly been committed on 29.06.2021 and the FIR has been registered on 30.06.2021. The appellant/accused came

to be arrested on 10.07.2021 and has been in incarceration since then, without trial. Other co-accused namely Amol Saluman Londhe, Avinash Pralhad Sawant, Arvind Mahadev Sonawane, Kuldeep Nandu Pandit, Hasim Harun Khan and Waris Gayasuddin Raja Shaikh are enlarged on bail. So also, after completion of the investigation, the Investigating Officer filed charge sheet on 07.10.2021 but the learned trial court has yet not framed the charge and continued the incarceration of the appellant/accused without commencement of the trial, which is violative of fundamental rights guaranteed under Article 21 of the Constitution of India. Therefore, the applicant is entitled for regular bail in connection with Crime No. 237 of 2021 registered with Shirdi Police Station, District Ahmednagar for the offences punishable under sections 302, 307, 120-B, 201 read with section 34 of the IPC and under Sections 3(2)(va) and 3(2)(v) of the SC & ST Act.

5. In support of his submissions, the learned counsel appearing for the appellant placed reliance on the following case laws:

- (1) *Shailesh Paigun Bhosale Vs. State of Maharashtra, (Bombay Law Finder ID #242515,*
- (2) *Order dated 12.12.2023 passed by this Court at Principal Seat in Bail Application No. 2145 of 2023, Shirishkumar Gopalchandra Padhye Vs. State of Maharashtra.*
- (3) *Order dated 02.05.2025 passed by the Hon'ble Supreme Court in*

Special Leave to Appeal (Cri) No. 3538/2025, Shashank @ Batlya Shankar Ambike Vs. State of Maharashtra.

(4) *Order dated 18.05.2022 passed by the Hon'ble Supreme Court in Special Leave to Appeal (Cri) No. 1627/2022, Indrani Pritam Mukharjee Vs. Central Bureau of Investigation.*

(5) *Order dated 15.02.2023 passed by the Hon'ble Supreme Court in Special Leave to Appeal No.1174/2022, Mukesh Kumar Vs. State of Rajasthan.*

(6) *Rabi Prakash Vs. State of Odisha, 2023 Live Law (SC) 533*

(7) *Order dated 06.05.2025 passed by the Hon'ble Supreme Court in Criminal Appeal No. 2546/2025, Indrajeet Vs. Ramesh Kasar.*

6. Per contra, the learned APP and the learned counsel appearing for Respondent No.2/Informant strongly opposed the appeal on the ground that, at the earlier point of time, the learned Trial Court rejected bail applications filed by the present appellant/accused on two occasions, and the appeals preferred against the said orders were also rejected. The third bail application came to be rejected on 05.07.2025, against which the present appeal has been filed. No change in circumstances has been brought on record by the appellant.

7. It is further canvassed that, in pursuance of the order dated 12.01.2026 passed by this Court, the learned Special Court submitted its report stating that a total of seven accused persons and one juvenile are involved in the commission of the crime, and that all the accused, except

accused No.2 Chandrahas @ Raj, the present appellant, have been released on bail. However, after their release, none of them are cooperating with the trial for framing of charges. Further, most of the accused persons are absconding. Accused No.3 Avinash is an under-trial prisoner in another crime. Similarly, after the accused No.5 Kuldeep was released on bail but he again got arrested. It is further submitted that, on most of the times, the accused were not produced from jail, and therefore, there is no fault on the part of the Trial Court for not framing charges against the accused. The accused who have been released on bail have remained absent and trying to protract the trial. Some of the accused who are released on bail are not cooperating, and consequently, warrants are issued against them. One or other accused continues to remain absent. Therefore, there is no lapse on the part of the Trial Court in not framing the charges.

8. It is further canvassed that, as per charge sheet, the present appellant is a contract killer. The present appellant/accused was hired on contract by accused No.1 Amol Londhe to kill deceased Rajendra as there was dispute between the deceased and accused No.1 Amol. The informant/ respondent No.2 is an eye witness to the incident. The informant identified the appellant during test Identification parade. So also, the weapon used in the crime was recovered at the instance of the

present appellant/accused under Section 27 of the Indian Evidence Act. Further, as per the post-mortem report, the cause of death of the deceased was hemorrhagic shock due to multiple injuries on the abdomen and a chop wound on the head. The present appellant played a key role in the commission of the crime. Therefore, considering the evidence available on record and fact that the offence under Section 302 of the IPC is punishable with either imprisonment for life or death, hence, if the present appellant-accused is released on bail, there is every possibility of his absconding, and the trial may be further protracted, hence, prayed for dismissal of the appeal.

9. Having regard to the submissions canvassed on behalf of both sides, I have gone through record. As per contents of FIR dated 30.06.2019, at about 00.19 Hrs., Crime No. 237 of 2021 registered with Shirdi Police Station, District Ahmednagar for the offences punishable under sections 307, 120-B, 201 read with section 34 of the IPC and under Sections 3(2) (va) and 3 (2)(v) of the SC & ST Act. However, subsequently, the injured Rajendra succumbed to the injuries sustained in assault with deadly weapon and therefore offence punishable under section 302 was included in the FIR. The Investigating officer recorded statements of witnesses and collected required documents/articles such as, CCTV footage, cell phone of the accused. The motorcycles, hammer etc. and after the investigation

is over, charge-sheet came to be filed against accused persons on 07.10.2021 for the offences punishable under sections 302, 307, 120-B, 201 read with section 34 of the IPC and under Sections 3(2)(va) and 3(2)(v) of the SC & ST Act.

10. Indeed, the other co-accused namely Amol Saluman Londhe, Avinash Prlhad Sawant, Arvind Mahadev Sonawane, Kuldeep Nandu Pandit, Hasim Harun Khan and Waris Gayasuddin Raja Shaikh are enlarged on bail. However, on perusal of charge sheet, it appears that the role played by the other co-accused are different than the role played by the present appellant accused. The evidence available on record shows that the present appellant accused multiple stabbed the deceased with sharp-edged weapon which corroborate with Post Mortem Report. Therefore, to my mind, the appellant is not entitled for bail on ground of parity with other accused who are release on bail.

11. On perusal of the charge sheet, it appears that the present appellant was hired on contract by the accused No.1 Amol Londhe to kill the deceased Rajendra on account of old dispute between deceased Rajendra and accused No.1. The informant is eye witness and the weapons used while committing crime have been recovered at the instance of the present appellant/accused under section 27 of the Evidence Act. As per the post-

mortem Report dated 24.07.2021, the injuries mentioned in Column No. 17 show that the deceased sustained multiple injuries. The documents filed along with the charge-sheet prima facie disclose involvement of the present appellant while committing the crime. The offence under Section 302 of the IPC is punishable with life imprisonment or capital punishment. It is a settled principle of law that when a person is involved in a heinous offence punishable with death or imprisonment for life, the Court is not expected to be unduly influenced by the concept of personal liberty, disregarding the facts and circumstances of the case.

12. In the case of State of *Maharashtra Vs. Ramesh Taurani*, **AIR 1998 SC 587**, the Hon'ble Supreme Court held that, in serious offences punishable with life imprisonment or death, the gravity of the offence and the likelihood of the accused absconding or obstructing the trial are crucial considerations while deciding bail. In the said case, the accused was involved in a conspiracy to kill the deceased through contract killers, and the evidence revealed that the accused had paid a huge amount to the contract killers. In the circumstances, held that it was not a fit case for grant of bail.

13. Indeed, it is fundamental right of the accused for speedy trial, guaranteed under Article 21 of the Constitution of India and the accused

cannot be incarcerated for a long period without trial as observed by the Hon'ble Supreme Court in case of **Indrani Mukharjea**, and other case laws, cited supra on behalf of the appellant.

14. It is the contention of the appellant-accused that the other co-accused, who have been enlarged on bail, are regularly appearing before the Trial Court; however, the charge has not been framed for one reason or another. So far as delay in conducting the trial, this Court, by order dated 12.01.2026, called for a report from the Special Court, Rahata, District Ahmednagar. Accordingly, this Court is in receipt of the report dated 21.01.2026. On perusal of the said report, it appears that the Court of the District Judge-1 and Additional Sessions Judge, Rahata, was established on 28.04.2024 under the notification dated 25.04.2024 issued by the State Government. Thereafter, Special Case No. 52 of 2021, which was pending on the file of the learned Special Court, Kopergaon, was transferred to the Special Court at Rahata and it is re-registered as Special Case No. 118 of 2024. As per the special report, all the co-accused except the present appellant Chandrahas @ Raj Ubale are released on bail in Collection with Crime No. 237 of 2021 registered with Shirdi Police Station. However, on most occasions, the present appellant/accused No. 2 was not produced before the Court from jail and other co-accused remained absent. Further, in order to secure presence of the absconding

accused, warrants were issued but subsequently, those warrants are cancelled against some accused. The proclamation report in respect of absconding accused is awaited.

15. The details of date-wise progress of the trial are as under:-

<u>Dates of hearing</u>	<u>Relevant observations per Roznama</u>
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| 15.6.24: | Accused no.2 was not produced from jail. Accused no 1,3,6 absent. Adjourned for hearing/charge. |
| 29.6.24: | Accused no.2 was not produced from jail. Accused nos. 1, 4 and 7 were Present. Co-accused nos.3, 5 and 6 who were released on bail were absent. Adjourned for hearing/charge. |
| 11.7.24 : | Accused no.2 was not produced from jail. Accused nos. 1, 3 to 7 were present. Accused nos.5, 6 appeared and their NBW came to be cancelled. |
| 23.7.24: | Accused no.2 was not produced from jail. Accused nos. 3, 5, 6, 7 were present. Accused nos.1 and 4 were absent. Adjourned for charge. |
| 03.8.24 : | Accused no.2 was not produced from jail. Accused nos.1, 3, 5, 6 were present. Accused nos.4 and 7 absent. Adjourned for charge. |
| 16.8.24: | Accused no.2 was not produced from jail. None of the accused were present, exemption appln. of accused nos.3 and 6 were allowed. Adjourned for charge. |
| 28.8.24 : | Accused no.2 was not produced from jail. Accused nos. 4 |

and 6 were present. Accused nos.1, 3, 5, 7 were absent. Adjourned for charge.

09.09.2024: Accused no.2 was not produced from jail. Accused no. 1 was present. Other accused are absent. Adjourned for charge.

18.09.24: PO was on leave, hence matter was adjourned.

30.09.24 : Accused no.2 was not produced from jail. Accused nos 1, 4, 5 and 7 were present. Other accused are absent. exemption appln. of accused nos.3 and 6 were allowed. Adjourned for charge.

11.10.24 : Accused no.2 was not produced from jail. Accused nos. 4 and 7 were present. Other accused are absent. exemption appln. of accused nos.3 and 6 were allowed. Adjourned for charge.

25.10.24: Accused no.2 was not produced from jail. Accused nos. 1, 7, 4 were present. Other accused are absent. exemption appln. of accused nos.3 and 6 were allowed. Adjourned for charge.

07.11.24 : Accused no.2 was not produced from jail. All accused were absent. Adjourned for orders/charge.

21.11.24: Accused no.2 was not produced from jail. Accused nos. 1, 7, 4 were present. Other accused were absent. Adjourned for charge.

04.12.24: Accused no.2 was not produced from jail. All accused are absent. Adjourned for charge.

18.12.24: Accused no.2 was not produced from jail. Accused no. 1 was present. All other accused are absent. Adjourned for

charge.

- 31.12.24: PO was on winter vacation. Hence, adjourned.
- 10.01.25: Accused no.2 was not produced from jail. All accused were absent. Adjourned for charge.
- 23.01.25: Accused no.2 was not produced from jail. All accused were absent. Adjourned for charge.
- 06.02.25: Accused no. 2 was not produced from jail. Accused nos. 1 & 4 present. Other accused are absent. Adjourned for charge.
- 20.02.25: Accused no.2 was not produced from jail. Accused nos. 6 and 7 were present. Other accused were absent. Adjourned for charge.
- 04.03.25: Accused 2 was not produced from jail. Accused no.1 present, others were absent. Adjourned for charge.
- 17.03.25: Accused no. 2 was not produced from jail. Accused no.7 present. Other accused are absent. Adjourned for charge.
- 03.04.25: Accused no.2 was not produced from jail. Accused nos.1, 4, 7 were present. Other accused are absent. Exemption appln. filed by accused no.7. Adjourned for charge.
- 17.04.25: Accused no.2 was not produced from jail. All accused are absent. Adjourned for charge.
- 23.04.25 : The matter is taken on board. Accused no.2 filed bail appln. Exh. 204. Adjourned for argument.
- 02.05.25: Accused no.2 was not produced from jail. Accused nos 1, 4 were present. Other accused are absent. Adjourned for argument/order.

- 08.5.25: Accused no.2 was not produced from jail. All accused are absent. Notice was served upon the informant, but absent. Adjourned for argument/order Exh. 204.
- 20.05.25: PO was on summer vacation.
- 02.06.25 : Accused no.2 was not produced from jail. All Accused accused are absent. PO was transferred.
- 11.06.25: Accused no.2 was not produced from jail. All accused and their Ld. Adv. absent. Adjourned for argument/order.
- 17.06.25: Accused 2 was not produced from jail. Accused nos.1, 4 were present. Other accused are absent. IO submitted their on bail appln. Exh. 204. Adjourned for argument/order.
- 21.06.25: Accused no.2 was not produced from jail. Accused nos.1 and 4 were present. Other accused are absent. NBW issued against absent accused. Adjourned for argument/order.
- 05.07.25: Accused no.2 was not produced from jail. Only accused nos.1 and 4 present. Warrant against accused nos.3,5,6,7 was reissued as returned unserved and their bail bond came to be forfeited, notices to their surety also issued. Bail Appln. Exh. 204 was heard and decided, thereby rejecting the bail appln. of accused no.2. Adjourned for NBW report.
- 19.07.25: Accused nos.1 and 4 were present. Co-accused are absent. Surety Sajid and Jubida of absent accused nos.6 and 7 were served with notices, but they were absent. Notices of others sureties returned as unserved. However, NBW was not served of accused Hasim and Kuldeep and same being

reissued against them. The report in respect of accused no.6 Warsi and Kuldeep is submitted thereby contending that they were not found at their addresses. Notice to their sureties also reissued. Accused no.3 Avinash's NBW report received as he was in Central Jail Nashik in another crime.

- 31.07.25: Accused no.2 was not produced from jail. Accused no. 4 present, though others were absent. Surety viz. Sitaram, Jubeda, Sajid were served with notices, but absent. Another Surety Raju Shelkar was not found at his address. Moreover, surety notices were reissued. Ld. APP filed application on Exh. 220 for reissuance of warrant as well as standing warrant against accused nos.3, 5, 6 and 7 as the Investigating Agency could not secure their presence. Surety of accused no.6 appeared and filed application on Exh- 224 with prayer that he would produce the accused Warsi shaikh on next date. Hence, adjourned.
- 02.08.25: Accused no.7 Hasim appeared and taken the matter on board vide application for cancellation of warrant. Apln. Was allowed, he furnished fresh surety.
- 14.08.25: Accused 2 was not produced from jail. Accused nos.1, 5, 4 and 7 were present. Other accused are absent. Accused no.5 filed application for cancellation of warrant, the same was rejected. Accused Kuldeep was taken into MCR.. He submitted bail appln. Hence, adjourned for argument and order.
- 20.08.25: Accused nos.2, 5 was in jail/UTP Accused nos.1, 4, 7 were present. Accused nos.3, 6 absent. Hence, adjourned for argument and order.

- 26.08.25: Accused 2, 5 were not produced from jail. Accused no 4,7 present. other accused are absent, Investigating Officer, Ld. APP and informant filed their respective say on the bail appln. of accused no.5. Hence, adjourned for argument and order.
- 02.09.25: Accused Nos.2 and 5 were not produced from jail. Accused nos. 1 and 4, were present. Accused nos. 6,7 absent, accused no 3. Avinash is UTP in another case. Issued NBW against sureties of accused Nos.6 Warsi. Hence, adjourned for argument and order.
- 12.09.25: Accused Nos. 2 and 5 were not produced from jail. Accused nos. 1,4 and 7 present. other accused are absent. accused no 3. Avinash is UTP in another case. Hence, adjourned for argument and order.
- 26.09.25: Accused Nos. 2 and 5 were not produced from jail. Accused nos.1 and 4 present, other accused are absent. Accused no 3. Avinash is UTP in another case. Accused Warsi absent hence NBW reissued against him and his surety. Hence, adjourned for argument and order.
- 10.10.2025: Accused nos.2, 5 were not produced from jail. Accused nos.1, 4 and 7 present. Other accused are absent. Hence, adjourned for argument and order.
- 15.10.2025: Accused nos.2 and 5 were not produced from jail. Accused no 3 Avinash is UTP in another case. Accused no.4 was present. Other accused are absent. Argument heard on bail appln. Exh. 234 and was decided thereby allowing the application.
- 05.11.2025: Accused nos.2 and 5 were not produced from jail. Accused

nos.1, 4, 7 were present. Other accused are absent. Accused no.6 Warsi's NBW report was returned unserved with the report that he is absconded in another C.R. no.298/2025 of Indiranagar Police Station, Nashik, for section 103(1) of BNS, and his surety Sajid who was accused in the said CR was also arrested. Hence, issued proclamation against accused no.6 Warsi.

19.11.2025: Accused 2,5 was not produced from jail. Accused no 1 and 4 present. Other accused are absent. Accused no.3 Avinash is UTP in another case. The verification report Exh. 244 of surety of accused no.5 is submitted by police thereby reporting surety is not found and on inquiry with neighbours none identified the surety as not residing on the given address. Order below Exh.1 is passed for taking action against accused no.5's surety. Hence, adjourned.

06.12.2025: Accused no.2 and 5 were not produced from jail. Accused nos.1, 4 and 7 were present. Other accused are absent. Accused no.3 Avinash is UTP in another case. Hence, adjourned for awaiting proclamation report.

22.12.25: Accused nos.2 and 5 were not produced from jail. Accused no 3 Avinash is UTP in another case. Accused nos.1, 4 and 7 present. Other accused are absent. Hence, adjourned for awaiting proclamation report of accused no.6.

08.01.2026: Accused nos.2 and 5 was not produced from jail. Accused nos.1 and 4 were present. Other accused are absent. Accused no 3. Avinash is UTP in another case. Proclamation report is awaited. Hence, adjourned.

16. In view of above detail progress report, it cannot be said that

the trial is protracted without effort on part of the Trial Court and the appellant is incarcerated. The appellant accused failed to bring any material on record to show that he made any effort for separation of trial from the other accused who are absconding and there is compliance u/s 82 and 83 of Code of Criminal Procedure.

17. As per the charge-sheet, there is CCTV footage of the spot of the incident, and the present appellant/accused has been identified by the witness, who had seen the accused while stabbing the deceased on the abdomen with a knife. There are in all 42 witnesses. Therefore, considering the serious nature of crime, though the appellant/accused is arrested on 10.07.2021 and since then he is in custody for about 4 ½ (Four and half) years, to my mind, the appellant accused has not made out prima facie case to release him on bail. Further, if the appellant accused is released on bail, in that event, there is every likelihood that the appellant may abscond and the trial may be hampered.

18. In view of the above, the impugned order passed by the learned Trial Court is a well-reasoned order, and I do not find any infirmity therein, hence, present appeal deserves to be dismissed. Accordingly dismissed. However, the learned Trial Court may consider the request of the appellant/accused seeking separation of trial from the absconded co-accused and shall endeavour to conclude the trial as expeditiously as possible.

19. The learned counsel Ms. Smita Chole-Kendre was appointed for Respondent No.2 from legal aid, hence, her fees shall be quantified as per rule and be paid by the Legal Aid Sub Committee, High Court, Bench at Aurangabad.

(Y. G. KHOBRADE, J.)

JPChavan