



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

940 CRIMINAL APPEAL NO. 19 OF 2026

**HARSH SUNIL VIBHANDIK
VERSUS
THE STATE OF MAHARASHTRA AND ANOTHER**

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Advocate for the Appellant : Mr. Patil Prakashsing B.
APP for Respondent/State : Mr. V. M. Chate
Advocate for the Respondent No.2 : Mr. Siddhesh Subhashrao Ghodke
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**CORAM : Y.G. KHOBRAGADE, J.
DATE : 07.04.2026**

ORDER:-

1. Heard the learned counsel appearing for the appellant. By the present appeal under Section 14-A of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989, the appellant/accused takes exception to the order dated 02.01.2026 passed below Exh.4 in Special Case No. 234/2025 by the learned Additional Sessions Judge/ Special Judge, Dhule thereby declined to release the appellant/accused on regular bail in connection with Crime No.315/2025 registered with Dhule City Police Station on 28.09.2025 for the offence punishable under Section 103(1), 118(1), 115(2), 3(5) Bharatiya Nyaya Sanhita, 2023 (for short BNS 2023) under Section 3(2)(v) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989.

2. It is the case of prosecution that, on 28.09.2025, the respondent no.2 lodged the FIR alleging that he is residing at his place with his wife and sons- Shubham and Tejas (deceased). His younger brother Pramod @ Pintya Sitaram Mahirale and his family also reside nearby. The appellant/accused- Harsh Sunil Vibhandik belongs to Hindu Sonar caste, accused no.2/Anurag Kiran Jagtap, accused no.3/Mayur Kiran Jagtap and accused no.4/Harshal Kashinath Khairnar belong to scheduled caste. The informant and accused are residing in one and the same colony and they know each other, about their caste as well. There was some dispute between the accused and Tejas Ganesh Mahirale, the younger son of the respondent no.2/informant. On 25.08.2025, at about 5.30 pm when his son Tejas (deceased) was sitting on Otta (platform / bench outside house) in front of his house, at that time the present appellant and other accused started abusing him in filthy language and issued life threats. After hearing such abusive language the respondent no.2/informant, his wife Smt. Ranjana and son Shubham came in the courtyard from their house and at that time, the present appellant/accused and his three associates namely, Anurag, Mayur and Harshal started abusing in filthy language. Therefore, the wife of the respondent no.2 requested the accused persons not to abuse her son in filthy language. In spite of said fact, the present appellant/accused- Harsh Sunil Vibhandik pull down Tejas (deceased) from the Otta and said “मारा चाला आज चाचा गेम वाजवू” (beat him

and finish him off). Thereafter, the present appellant/accused and his three associates named above started beating Tejas on his head, back, face and stomach with fists. Thereafter, all the four accused grabbed hands and feet of the deceased and lifted him up and threw him down on the hard surface due to which Tejas was hit hard on the head and he fell unconscious. Thereafter, the respondent no.2/informant, his wife- Ranjana and elder son Shubham rescued Tejas from the clutches of the accused persons. At the same time, Pramod @ Pintya Sitaram Mahirale the younger brother of the informant and his wife-Jaishri visited at the spot but all the accused persons abused them and fled away from the spot.

3. According to the respondent no.2/informant, his son Tejas was hit on the head and was seriously injured, therefore, they admitted him in unconscious state on 25.08.2025 at around 6.30 pm by carrying him in ambulance for medical treatment at Civil Hospital, Dhule. Since condition of injured-Tejas worsened and deteriorated, he was shifted to Ghati Hospital, Ch. Sambhajinagar on 27.08.2025, however, on 26.09.2025 at about 3.00 am Tejas succumbed to his injuries during the treatment. On the basis of said report, Crime No. 315/2025 came to be registered against the present appellant/accused and his three associates for the above stated offences. The I.O. had drawn inquest panchanama on the dead body of the deceased and

referred for medical autopsy, the I.O. also recorded statement of the witnesses and drawn spot panchanama. On 28.09.2025, the present appellant/accused-Harsh Sunil Vibhandik came to be arrested under the arrest panchanama, however, the other accused Anurag Kiran Jagtap, Mayur Kiran Jagtap and Harshal Kashinath Khairnar are still absconding. The I.O. recorded in camera statement of the witnesses as well as statement of the respondent no.2/informant under Section 123 of the BNS Act before the learned JMFC on 24.11.2025. After completion of the investigation, the I.O. has filed charge-sheet against the accused persons.

4. On 09.12.2025, the appellant/accused had filed Exh.4 in Special Case No. 234/2025 and prayed for releasing him on regular bail in connection with Crime No. 315/2025. On 02.01.2026, the learned trial Court passed the impugned order and rejected the application for grant of bail.

5. The learned counsel appearing for the appellant canvassed in vehemence that, on 25.08.2025, at about 5.30 pm the incident narrated in the FIR had occurred, however, on 28.09.2025 at about 18.45 hours the respondent no.2/informant lodged the FIR after one month and three days. As per the injury certificate issued by the Civil Hospital, Dhule the injured-Tejas was hospitalized on 25.08.2025 at about 7.00 pm with assault history. Therefore, there is contradiction in the FIR and the injury certificate. So also,

there is delay of one month and three days in lodging the report and it creates doubt about the prosecution story.

6. The learned counsel appearing for the appellant further canvassed that, the contents of the FIR does not attract the ingredients for the offence punishable under Section 103(1), 3(5) of the BNS and Section 3(2)(v) of the SC-ST Act. It is further canvassed that, no corroborative evidence has been collected by the I.O. to implicate the present appellant/accused. The appellant is ready and willing to cooperate with the prosecution and will always be available for the trial. Therefore, considering the nature of injuries and occurrence of the incident as well as the death of the injured on 26.09.2025 at about 3.00 am, no offence under Section 103(1), 3(5) of the BNS is constituted. So also, the FIR does not reflect about the abusement to the deceased on his caste and the offence under Section 3(2)(v) of the SC-ST Act is also not constituted. Hence, prayed for releasing the appellant/accused on bail during the pendency of trial.

7. The prosecution has filed affidavit in reply and the I.O. has strongly resisted the application for bail. Mr. Chate, the learned APP canvassed in vehemence that, the incident of lifting the victim by the appellant and his three associates and throwing him down on hard surface led to Tejas (deceased) sustaining grievous injuries on his head and back due to

which he died on 26.09.2025. It is further canvassed that, the present appellant, his associates are residing in one and the same colony and they know caste of each other. The appellant and his associates with an intention to commit the murder of deceased-Tejas assaulted him with fists on head, face, back and stomach and further grabbed his hands and feet lifted him up and threw him with force on the ground in the courtyard due to which he sustained serious injuries on his head and subsequently the deceased-Tejas died during hospitalization. Therefore, nature of offence and as all the witnesses are residing in the same locality, if the appellant is released on bail in that event, there is every possibility of tampering and pressurizing the witnesses. Hence, prayed for dismissal of the appeal.

8. The respondent no.2/informant has also filed affidavit in reply and strongly resisted the prayer for grant of bail. The learned counsel appearing for the respondent no.2 canvassed that, the respondent no.2 had visited the police station to lodge the report soon after the deceased was admitted in Civil Hospital, Dhule on 25.08.2025 but his complaint was not registered by the police as the accused nos.2 and 3 are sons' of policemen. Thereafter, on 27.08.2025 the injured was shifted to Ghati Hospital, Ch. Sambhajinagar and he was battling for his life. Lastly, on 26.09.2025, the injured-Tejas died during the treatment. According to the learned counsel for

the respondent no.2, the present appellant/accused and his associates have committed brutal murder and other accused persons are still absconding since the day of the incident. At the earlier point of time also the application for regular bail came to be rejected and substantial grounds have not been set out to enlarge the appellant/accused on bail. Hence, prayed for dismissal of the appeal.

9. To buttress these submissions, the learned counsel for the appellant placed reliance on the judgment dated 16.10.2023 passed in Bail Application No. 1630 of 2023 (Salman and Ors. V/s. The State of Maharashtra) by the Co-ordinate Bench of this Court, wherein, it is held that there is delay of eight days in lodging the FIR without explanation and there are contradictory statements of the witnesses regarding the role of accused, so also, there is no recovery of weapon at the insistence of the accused, hence, the accused was released on bail.

10. Having regard to the submissions canvassed on behalf of both the sides, I have gone through the record. On face of record, it *prima facie* appears that, on 25.08.2025, at about 5.30 pm the present appellant and his associates visited the house of deceased-Tejas when he was sitting on Otta in front of his house and abused him in filthy language and issued life threats. After hearing the commotion, Smt. Ranjana the wife of the present respondent

no.2/informant and his son Shubham came out from their house and at that time they saw that the present appellant/accused and his three associates namely, Anurag, Mayur and Harshal were abusing the deceased-Tejas in filthy language. Therefore, the wife of the respondent no.2 requested the accused persons not to abuse her son in filthy language, however, the present appellant/accused pulled the deceased from Otta and instigated to beat him and to take his life. Thereafter, the present appellant and his associates namely Anurag Kiran Jagtap, Mayur Kiran Jagtap and Harshal Kashinath Khairnar assaulted the victim with fists on his head, face, back and stomach and then lifted him up and threw him on the hard surface due to which Tejas sustained injuries to his head, chest and other parts of the body. Therefore, the respondent no.2 and his family members initially shifted injured-Tejas to the Civil Hospital, Dhule on 25.08.2025, however, as the injured-Tejas was not recovering well and as his condition worsened and was battling for his life, he was shifted to Ghati Hospital, Ch. Sambhajinagar (Aurangabad) for better treatment, however, on 26.09.2025 at about 3.00 am he succumbed to the injuries. As per the post mortem report, the deceased sustained serious head injury and there were nine injuries on his body and there was clotting too. The Medical Officer opined that, the death of the deceased was caused due to septicemia in a case of head injury. It is an admitted fact that, the charge-sheet is filed against the present appellant/accused, however, the other

accused are still on the run and absconding since the day of the offence.

11. As per the charge-sheet, all the witnesses are residing in the same locality in which the present appellant and other absconding accused are residing. The statement of the respondent no.2 was recorded under Section 183 of the BNS which shows that the present appellant/accused and his associates lifted up the deceased and thrown him on the hard surface. So also, another accused-Harshal assaulted the deceased on his head with wooden log. Therefore, intention of the present appellant/accused and his associates was certainly to cause homicidal death of the deceased-Tejas. On the face of record it *prima facie* appears that, the present appellant/accused played key role while committing the offence. Needless to say that, while considering the application for bail the Court is required to consider the circumstances as well as the factors viz. The nature of accusation and the severity of punishment in case of conviction and the nature and supporting evidence as well as reasonable apprehension of tampering of the witnesses or apprehension of threat to the complainant/informant and *prima facie* satisfaction of the Court in support of the charge. In case of **Shahzad Hasan Khan V/s. Ishtiaq Hasan Khan & Anr.**; 1986 SC 1613 and **Gurucharan V/s. State**; AIR 1978 SC 79, it has been held that while granting bail, the Court should be satisfied that the accused being enlarged on bail will not be in a

position to tamper with the evidence. If the allegations of tampering, which can seldom be proved by concrete evidence, are not found to be concocted, it would not be a proper exercise of jurisdiction to enlarge the accused on bail.

12. In the case in hand, the present appellant and his associates committed brutal murder of the deceased by lifting him up and throwing him on the hard surface. Offence under Section 103(1) is punishable for life or capital punishment. So also, the witnesses are residing in the same locality where the appellant/accused resides and the associates of appellant/accused are still absconding since the day of the incident. Therefore, if the appellant/accused is released on bail, at this juncture, there is every possibility that the present appellant/accused will tamper the prosecution witnesses and the absconding accused will remain unarrested.

13. In view of above discussion and considering the nature and gravity of the offence and the conduct of the present appellant, I do not find that the appellant/accused has made out a substantial case to enlarge him on bail. Accordingly, the appeal is dismissed.

[Y.G. KHOBRADE, J.]