



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

909 CRIMINAL APPEAL NO. 326 OF 2026

SAMBHAJI BABASAHEB AVHAD

....Appellant

VERSUS

THE STATE OF MAHARASHTRA AND ANOTHER

.....Respondents

Mr. K. N. Shermale, Advocate for the Appellant

Mr. D. B. Bhange, APP for the respondents/State

Mr. Anand Dale, Advocate for the Respondent No. 2 [appointed]

CORAM : ABHAY J. MANTRI, J.

DATE : 08th MAY, 2026

PER COURT :

1. It appears from the office note dated 07-05-2026 that, as per the police report, Respondent No. 2 is not residing at the given address. However, the police informed her by telephone and sent a copy of the notice via WhatsApp. The said report is annexed with the Appeal. Despite the said fact, no one appeared for Respondent No. 2.

2. Mr. Dale, a learned Advocate who is present in the Court, has shown his willingness to represent the Respondent No.2. Accordingly, he is appointed to represent the Respondent No. 2.

3. The Appellant, being dissatisfied with the order dated 30-04-2026 passed below Exh. 19 in Special Case No. 411/2025 by the

learned Additional Sessions Judge, Ahmednagar, thereby rejected the bail Application in connection with Crime No. 116 of 2025 dated 09-02-2025 registered with the Pathardi Police Station, Dist. Ahmednagar for the offences punishable under Sections 115(2), 351(2), 3(5), 352 of the Bhartiya Nyay Sanhita [for short '***the BNS Act***'] and Sections 3(1)(r), 3(1)(s) and 3(2)(va) of the Scheduled Castes and Scheduled Tribes [Prevention of Atrocities] Act [for short '***the Atrocities Act***'] has preferred this Appeal for grant of bail.

4. Heard the learned Advocates for the Appellant, Respondent No. 2, and the learned App for the State and perused the charge sheet as well as the record.

5. It is pertinent to note that in this case, initially, the learned Additional Sessions Judge, Ahmednagar, granted the interim bail to the Appellant till the decision of the regular bail application on 14-02-2026. The said order was passed below Exh. 3 in Special Case No. 411/2025 para No. 2 of the said order reads as under :

“2. It is the case that the investigation was completed without the arrest of the accused. One of the purpose amongst other to arrest the accused is for interrogation during investigation. The facts mentioned above clearly indicate that the investigation officer did not think it necessary to arrest the accused for the purpose of investigation. In such circumstances, the Court finds that unless the other circumstances come before the Court, detention of the accused is not necessary, and in such circumstances, justice demands to free the accused on bail. However, considering the stringent provision regarding notice

to the informant before granting regular bail, the Court is of the view that interim bail can be granted with a direction to issue notice of this Application to the informant.”

6. Bare perusal of the said observations indicates that the investigation was completed. Therefore, the learned Judge was of the opinion that it would not be appropriate to detain the Appellant behind bars and granted interim bail. However, subsequently, while considering the main bail Application, i.e., below Exh. 4 in Special Case No. 411/2025, the Application was rejected on 10-04-2026 as against the present Appellant on the ground that he had suppressed the facts regarding the registration of one crime against him. However, the interim bail granted to the co-accused Sangita was confirmed.

7. Thereafter, the Appellant has filed a second bail Application below Exh. 19 in Special Case No. 411/2025, disclosing the registration of one crime against him. However, the learned Additional Sessions Judge rejected the same on 30-04-2026 on the ground that the Appellant suppressed his criminal antecedents, and in the absence of a change in circumstances, the successive bail Application is not maintainable. Therefore, the Appellant has moved this Appeal.

8. On 09-02-2025, the informant, Aasarabai, lodged a report against the Appellant and one Sangita alleging that at about 09.00 am,

they had opened the hotel and were selling the tea in front of their shed and while enquiring with them a scuffle took place between them on account of a land dispute, and during the scuffle, the Appellant and others abused them with a caste slur and threatened to kill. Therefore, she lodged the report. Pursuant to the report, the Appellant and co-accused have filed the bail Applications below Exh. 4, wherein Exhibit 3 was filed for the grant of interim bail. Accordingly, interim bail was granted on 14-02-2026 until the decision on regular bail. However, on the grounds of suppression of fact, the second bail Application was rejected.

9. Learned Advocate for the Appellant vehemently contended that in the second bail Application, the Appellant had disclosed the registration of the offence against him. Despite the said fact, the learned Additional Sessions Judge rejected the Application. He further canvassed that the law laid down in the case of *Munnesh Vs State of Uttar Pradesh in SLP (Cri.) No(s).1400/2025in CR MBA No. 38065/2023* does not apply to the case in hand, as the Appellant has disclosed the registration of the offence against him. As such, he urged for the grant of bail.

10. On the other hand, the learned APP and the learned Advocate for Respondent No.2 vehemently opposed the bail on the

ground that the Appellant has intentionally suppressed the fact of the registration of the offence against him. Therefore, the learned Additional Sessions Judge has rightly rejected the Application.

11. To buttress their submissions, they have placed reliance on the judgment of the *Munnesh* (supra) in para Nos. 11 as well as *Zeba Khan Vs State of Uttar Pradesh, 2026 SCC Online SC 188* in para 48 and submitted that in view of the law laid down by the Hon'ble Supreme Court, the Appellant is not entitled to bail and urged the rejection of the Bail Application.

12. Having considered the rival contention, at the outset, it appears that due to non-disclosure of the registration of the offence, the Appellant's first Application was rejected. However, in the second bail application, he has disclosed the offence registered against him; therefore, in my view, it would not be appropriate to reject the said Application on the ground that a successive bail Application is not maintainable.

13. The Appellant has also pointed out the FIR bearing Crime No. 190 of 2025. Perused the same. It is pertinent to note that due to the non-disclosure of the earlier registration of the offence by the Appellant, his first Application was rejected. However, in the second

application, he has disclosed the same. Therefore, in my view, the observations made by the Hon'ble Supreme Court in the above-cited judgments are hardly of any assistance to the learned APP and learned Advocate for the Respondent No. 2 in support of their contentions. Thus, in my view, as observed by the learned Additional Sessions Judge in para 2 while granting ad-interim bail, the investigation is complete, and the charge-sheet has been filed in court; as such, it would not be appropriate to detain the Appellant behind bars, but he is entitled to be released on bail.

14. Having considered the allegations against the Appellant, in my view, it would not be appropriate to detain the Appellant behind bars for an indefinite period, as the trial will take its own time. However, to dispel the apprehension of the prosecution regarding the non-disclosure of the first offence in his first Application, it would be appropriate to impose a stringent condition on him while releasing him on bail.

15. As a result, **the Appeal is allowed in terms of prayer clause B.**

16. Accordingly, the Appellant be released on bail in connection with Crime No. 116 of 2025 registered with the Pathardi Police Station, Dist. Ahmednagar for the offences punishable under Sections 115(2), 351(2), 3(5), 352 of the BNS Act and Sections 3(1)

(r), 3(1)(s) and 3(2)(va) of the Atrocities Act, on furnishing PB and SB of **Rs. 50,000/- [Rupees Fifty Thousand only]** with one or more solvent sureties in the like amount, on the following terms and conditions:

- i] The Appellants shall not tamper with the prosecution evidence in any manner till the conclusion of the trial.
- ii] The Appellant shall not leave India without prior permission of the court till the conclusion of the trial.
- iii] The Appellant shall furnish the contact details and residential address to the I. O./Police Station and the concerned Court, and shall keep the information updated, in case of any change.

17. The learned Advocate Mr. Anand Dale is appointed to represent respondent No.2; as such, his fees are to be quantified as per the rules under the Legal Services Authority and paid to him.

[ABHAY J. MANTRI, J.]