IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIRCUIT BENCH AT KOLHAPUR
CRIMINAL APPELLATE JURISDICTION

CR. APPEAL NO. 258 OF 2026

Jayguru Nilkanth Gajbhar (Swami) …Appellant
V/s.
The State of Maharashtra And Others …Respondents

Mr. Ritesh Thobde i/by Mr. Darshan Singh Rajpurohit for Appellant.
Mr. Ganesh M. Khatakale, for Respondent No.3.
Ms. Shubhangi N. Deshmukh, APP for the Respondent-State.
Mr. PSI Keshav Randive, PSI, Pandharpur Taluka Police Station, present in Court.

CORAM : SHARMILA U. DESHMUKH, J.
DATED : OCTOBER 23, 2026

P.C.:

1. By the present Appeal filed under Section 14A of the Scheduled Castes and Schedule Tribes (Prevention of Atrocities) Act, 1989, (**"SCST Act"**) the Appellant questions the order dated 24th September, 2026 passed by the learned Additional Sessions Judge, Pandharpur in Criminal Bail Application No. 556 of 2026, and seeks pre-arrest bail.

2. The Appellant was arraigned as Accused No.3 along with two others in connection with C.R. No. 553 of 2026 dated 7th August, 2026 registered with the Pandharpur Taluka Police Station, District Solapur Rural, for offences punishable under Section 103(1) read with Section 3(5) of the Bharatiya Nyaya Sanhita, 2023, at the instance of the first informant, who is the sister of the deceased.

3. During the pendency of the present Application, the provisions

of the SCST Act came to be invoked, and accordingly, the application was converted into Criminal Appeal.

4. The case of the prosecution was that the informant, who is the sister of the deceased, received mobile call from her brother Balaji (deceased) on 28th July, 2026 informing her that he has been assaulted by Amar Jayguru Swami and two other persons and was taking medical treatment at the Government Hospital at Pandharpur. The first informant reached the hospital at about 11:30 p.m. and noticed injuries on the person of the deceased. The deceased upon enquiry informed her that he had taken his owner's car for fetching the wife and children of the deceased, and that on 27th July, 2026, the owner, i.e. Accused No.1, Amar Jayguru Swami, came to Chikamhud along with his cousins and took the car back. It is further stated that on 28th July, 2026 at about 4:00 p.m., when the deceased went to the house of Amar, at that time Amar and two other persons assaulted him for taking the car for the purpose of fetching his family and alleged that the car has been damaged as the deceased had driven the car under the influence of alcohol, and threatened him. The deceased was assaulted by an iron rod on his head, forehead, right knee, and on the backside, and that he was taken to the hospital by the passers-by.

5. The FIR came to be registered impleading Amar Jayguru Swami as Accused No. 1 and two other unnamed persons. Subsequently,

investigation was carried out and charge-sheet came to be filed, in which the present Appellant was arraigned as an Accused.

6. The Appellant filed an application seeking pre-arrest bail, which came to be rejected by the Sessions Court on 24th September, 2026.

7. Learned counsel appearing for the Appellant would submit that the present Appellant is the father of Accused No.1 Amar Jayguru Swami, and in the FIR was not named though the deceased was the driver of the family. He would further submit that in the FIR, the informant, who is the sister of the deceased, has stated that on 29th July, 2026 the deceased was taken by the informant to the village and was kept in the house till 1st August, 2026, and thereafter was admitted to Chhatrapati Shivaji Maharaj Civil Hospital, Solapur and expired on 7th August, 2026 at 11:45 p.m. He submits that the FIR was registered on 7th August, 2026 and the present Appellant was not named in the FIR. He would further submit that subsequently, the provisions of Section 3(2)(v) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 was added, whereas there was no statement in the FIR to demonstrate an intent to cause hurt with the knowledge of the deceased belonging to Scheduled Caste or Scheduled Tribe. He would further point out the statements under Section 161 of the Code of Criminal Procedure ("**Cr.P.C.**") as regards the discrepancy in the timing. He would submit that the statement of witness Ashutosh Dattatray Adhatrav mentions the alleged incident

as having occurred between 12:30 p.m. to 1:00 p.m. He has taken this Court through the statement in order to demonstrate that the witness did not actually see the assault, and has stated that the Appellant was holding wooden stick, whereas the FIR makes mention of an iron rod. He would further point out that the witness has stated that Accused No.1 Amar and the present Appellant took the deceased along with them to the police station. He would point out that the statement of the witness was recorded on 10th August, 2026, i.e. 3 days after the death of the deceased and 14 days after the incident.

8. Learned APP would submit that the discrepancy as regards the timing is immaterial, as the informant was contacted by the deceased on 28th July, 2026 at 8:00 p.m. when he was in the hospital and would be affected by the trauma. She would submit that Section 161 statement of the witnesses show the complicity of the Appellant. She would further submit that there is recovery at the instance of Accused No.1. She would further point out that in view of the bar under Section 18 of the SCST Act, the provisions of Section 438 of Cr.P.C. will not apply.

9. Learned counsel appearing for the Respondent No.3 would point out the findings in the order of the Additional Sessions Judge that during investigation the CCTV footage highlighted the presence of the present Appellant along with Accused No.2 and deceased Balaji. He would therefore submit that the Sessions Judge has

considered the relevant parameters and rightly denied the pre-arrest bail.

10. I have considered the submissions, perused the order dated 24th September, 2026 of the learned Additional Sessions Judge, the FIR, and the final report.

11. This is an application seeking pre-arrest bail. The Appellant has been arraigned as an Accused for offences under Sections 103(1) and 3(5) of the Bharatiya Nyaya Sanhita, 2023 and Section 3(2)(v) of the SCST Act.

12. The FIR has been lodged by the sister of the deceased, who has stated that she was informed by the deceased that on 28th July, 2026 at about 4:00 p.m., Accused No.1 and two other persons had assaulted him on the ground of taking the car for the purpose of fetching his family. The FIR was lodged on 7th August, 2026 and the deceased had called up the sister on the very same date and had identified his owner, i.e. Accused No.1. The name of the present Appellant is not mentioned in the FIR, though he is the father of Accused No.1 and was known to the deceased. The FIR states that the deceased was assaulted by an iron rod, whereas the statement of the witness under Section 161 records that the Appellant was holding wooden stick. The informant has stated that on 29th July, 2026, the deceased was taken from the hospital to his village and was at his residence till 1st August, 2026, and thereafter shifted to the Civil

Hospital at Solapur, where he expired on 7th August, 2026. The FIR has been lodged on 7th August, 2026 without naming the Appellant. Even if the deceased was in trauma on date of alleged incident, thereafter, he was at his house for four days and did not name the Appellant.

13. The time gap between date of the alleged assault and the date of expiry of the deceased assumes significance in view of the medical certificate, which records the probable cause of death as under:

> "SEPTICEMIA AS A COMPLICATION OF MULTIPLE INJURIES OVER BODY, NECESSARY SAMPLES PRESERVED FOR NECESSARY ANALYSIS."

14. Column 23 of the Medical Certificate does not certify that the ante-mortem injuries found on the dead body were sufficient in the ordinary course of nature to cause death. *Prima facie,* it appears that due to the delay in providing medical treatment to the deceased, there was a bacterial infection, by reason of which the deceased expired due to septicemia.

15. There is no eye-witness to the incident of assault, and the reliance placed on the CCTV footage as regards the presence of the present Appellant can be sufficiently explained as the house where the alleged incident took place belonged to the present Appellant and Accused No.1.

16. The statement of witness Ashutosh Dattatray Adhatrav was recorded on 10th August, 2026 and times the alleged incident at 12:30 p.m. to 1:00 p.m. The said witness has not stated that he has

witnessed the incident, and gives different version than the version in the FIR as regards the deceased being taken to the hospital by passers-by, whereas the witness has stated that Accused No.1 along with the present Appellant had taken the deceased to the police station.

17. From the material which is produced on record, *prima facie* there is no nexus between the alleged incident and the cause of death as noted in the medical certificate.

18. For the purpose of application of the bar under Section 18 of the SCST Act, this Court is required to come to *prima facie* finding as regards the commission of the offence by the present Appellant. *Prima facie,* the complicity of the Appellant is not demonstrated from the charge-sheet and the statements recorded during the investigation.

19. In light of the above, the Appellant is entitled to pre-arrest bail. Hence, the following order :

ORDER

I. The appeal is allowed.

II. The order dated 24th September, 2026 passed by the learned Additional Sessions Judge, Pandharpur in Criminal Bail Application No. 556 of 2026, is quashed and set aside.

III. In the event of arrest of the present Appellant in connection with C.R. No. 553 of 2026, registered with the

Pandharpur Taluka Police Station, District Solapur Rural, the Appellant be released on bail on furnishing P.R. bond in the sum of Rs.50,000/- with one or two sureties in the like amount.

IV. The Appellant shall cooperate with the investigation and attend the police station on 28th October, 2026 and 29th October, 2026 between 11:00 a.m. to 1:00 p.m., and as and when required by the Investigating Officer.

V. The Appellant shall not attempt to contact or influence the prosecution witnesses.

(SHARMILA U. DESHMUKH, J.)