



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

CRIMINAL APPEAL NO.191/2025

(Sahebrao Uttam Maliye Vs. State of Maharashtra, through Police Station Officer, PS-Durgapur, Distt. Chandrapur and another)

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Mr. Atharv Khadse, Advocate for the Appellant.
Ms Sneha S. Dhote, A.P.P for the Respondent No.1/State.
Mr. Aniruddha Ananthakrishnan, Advocate (appointed) for the Respondent No.2.

CORAM: NEERAJ P. DHOTE, J.

DATED: 27.3.2026.

This is an Appeal under Section 14-A of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 (for short "SCST Act") against the order dated 17.12.2024 passed by the learned trial Court rejecting the Regular Bail Application of the Appellant in Special (Atrocity) Case No.18/2023 pending on the file of learned Additional Sessions Judge/Special Judge, Chandrapur.

2. The Appellant is one of the accused in Crime No.189/2022 registered with Police Station Durgapur, District Chandrapur for the offence punishable under Sections 302, 143, 147, 148, 427, 120-B and 212 of the Indian Penal Code (for short "I.P.C.") read with Section 4/25 of the Arms Act and for the offence punishable under Sections 3(2)(v), 3(2)(va) of SCST Act. The prosecution's case as noted in the impugned order is reproduced below:-

"2. It is the case of prosecution that, on 08.11.2022, at around 5:02 am, a report was lodged by Pankaj Watekar at the Durgapur Police Station. According to the report, on 07.11.2022, between 10:00 and 10:15 pm, Watekar, along with Mahesh Meshram, Om Suryavanshi, and Ajay Pawar, visited Imli Bar for drinks. Allegedly, at 10:30 pm, Watekar,

Meshram, Ashish, and Ravi Durge left the bar, while Pawar and Suryavanshi remained inside. Thereafter Mahesh Meshram had called car of his friend Lala. Mahesh Meshram was attacked by 6 to 7 individuals with weapons such as axes, swords, farsa, and iron rods and assaulted Mahesh with those weapons on his stomach and neck. Meshram tried to escape and ran towards petrol pump beside Bar for saving his life but collapsed on the road and was fatally assaulted. The assailants also attacked Lala's car. Watekar, out of fear, ran away from that place. Although Watekar claimed to recognize the assailants, he didn't know their names, except for describing one person as thin with black curly hair, possibly named Bhagirathi. Bhagirathi and Shubham were arrested on 08.11.2022, followed by the arrest of accused No.3 to 10 later that day.”

3. Heard the learned Advocate for the Appellant, the learned A.P.P. for the State and the learned Advocate for the Respondent No.2.

a) It is submitted by the learned Advocate for the Appellant that, though the Appellant was known to the eye-witnesses, he was not named in the F.I.R. and also in the 161 statement of the eye-witnesses. The Appellant was named as one of the assailants in the 164 statement of the eye-witnesses which was recorded after a period of one month. The Test Identification Parade (TIP) was vitiated on the ground of delay and publishing of the photographs of the Appellant/accused in the newspaper and no precautions were taken while producing the Appellant before the Court. The co-accused Bandu Shahu to whom the role of hatching conspiracy is attributed has been released on bail. The Postmortem Report shows stab injuries and the role attributed to the Appellant is assault by *Bottom*. The Postmortem Report shows stab wound which would not be caused by the weapon which was shown in the hand of the Appellant. The

Appellant is behind bars for a period of three (3) and half ($\frac{1}{2}$) years and there is no progress in the trial. It is submitted that, the Appellant is entitled for bail on the said ground. In support of his submissions, he cited number of authorities wherein the Hon'ble Apex Court granted bail on the ground of long incarceration ranging from one (1) and half ($\frac{1}{2}$) years to nine (9) years. He further submitted that, out of 119 dates, the Appellant was produced before the trial Court only on 19 dates. For this he placed reliance on the order dated 02.12.2025 in the Petition for Special Leave to Appeal (Cri.) No.12690/2025 wherein the directions were given to the Directorate General of Police, State of Maharashtra to direct the enquiry and take action against the concerned persons for non-production of the accused therein. He submitted that, the Appeal be allowed.

b) It is submitted by the learned A.P.P. that, the Appellant is not entitled for bail on the ground of parity as the Appellant had actually participated in the crime. The co-accused Bandu Shah was not seen on the spot of incident and, therefore, no parity is available to the Appellant. The Appellant was one of the actual assailants. The case is based on the statement of the eye-witnesses. The P.M. Report shows the cause of death as *death due to hemorrhagic shock by decapitation of head and multiple injuries*. The weapons used in the crime are seized at the instance of the Appellant pursuant to disclosure statement under Section 27 of the Indian Evidence Act. There were 20 injuries on the person of deceased. The CCTV Footage and the CDR's shows the involvement of the Appellant in the incident. The eye-witnesses have identified the Appellant in the TIP. The grounds raised by the Appellant on merits can only be considered after the

evidence is led. For some dates, adjournments were sought by the accused persons to engage Advocate and, therefore, it cannot be said that, the trial was delayed only from the side of prosecution. Considering the gravity of the offence, the Appeal be dismissed.

c) It is submitted by the learned Advocate for the Respondent No.2 that, he supports the submissions made by the learned A.P.P

4. Undisputedly, the case is based on the statement of eye-witnesses. The Appellant has been shown as one of the assailants by the eye-witnesses in the 164 Statement. The Appellant was put to TIP and was identified as one of the assailants. Whether the TIP would get vitiated and what would be the effect of not naming the Appellant in the F.I.R., and naming him in the 164 Cr.PC. statement, is to be appreciated after the evidence is led. The recovery of the weapons, which according to the learned Advocate for the Appellant was from the open place, is shown at the instance of the Appellant. With these aspects of the matter, I find substance in the submissions of learned A.P.P that ground of parity is not available to the Appellant.

5. The papers show that, by order dated 18.12.2025 the Status Report was called from the learned trial Court. The learned trial Court had submitted the Report dated 06.01.2026 stating that, case involves 11 accused persons and despite consistent efforts, hearing on the Charge could not be conducted due to several unavoidable circumstances such as accused Nos.1, 2, 3 (Appellant), 4, 5 and 7 had not engaged defence counsel despite repeated opportunities and few of them remained deliberately absent one after the another and on certain occasions the Jail Authorities could not produce the accused due to logistical and administrative constrains and as such these

factors collectively resulted in unavoidable adjournments. It is further stated that, the case was fixed for arguments on Charge on 06.01.2026 and directions were issued to the Jail Authorities for strict compliance to ensure production of all accused on 06.01.2026 and notice was also issued to the Legal Aid Secretary to ensure that all the accused were represented by the Counsel so that no further delay occurs and notices were also issued to the concerned lawyers. It is further stated that, every possible measure shall be taken to expedite the trial which would include fixing short and consecutive dates for arguments on Charge, issuing production warrants well in advance, and invoking coercive measures, if necessary, against the absentees to secure their presence. It is further stated that, the Court remains committed to conduct the proceedings with seriousness, diligence and sensitively as the case of this magnitude demands ensuring both speedy disposal and adherence to due process of law.

6. It is informed across the Bar that, the trial has commenced and the prosecution has examined five (5) witnesses. This shows that, there is progress in the trial. Considering all the aspects of the matter and the Report of the learned trial Court, the Appellant can be given liberty to move for bail, if the trial is not concluded within a period of six (6) months. Hence, the following order:-

ORDER

- i) The Appeal stands dismissed.
- ii) The Appellant would be at liberty to move the Application for bail, if the trial is not concluded within a period of six (6) months.

iii) Fees of the learned Advocate appointed for the Respondent No.2 is quantified at Rs.5,000/-. The same shall be paid by the Legal Services Authority.

(NEERAJ P. DHOTE, J.)