

Special (Atrocity) Case No. 80 of 2024

(Old Spl. (Atro.) Case No.131/2024)

CNR No. MHST21000163-2024

State Vs Hasan Latif Shaikh & Ors.

ORDER PASSED BELOW EXH.84

(Passed on 22.01.2026)

1] This is third application submitted by accused **Hasan Latif Shaikh** for releasing him on bail on the ground of delay caused in hearing of the case which is affecting his rights. Original complainant-victim has filed her say at Exh.104 and raised objection by stating reason that accused is taking search of victim through his relatives and they are pressurizing employer of victim for withdrawing case and to kill them.

2] Ld. APP for State has filed his say at Exh.90 and raised objection to this bail application. It is the contention of Addl. PP for State that examination-in-chief of PW 1 Vinod Chavan is recorded and hence there is no delay in trial. The bail applications preferred by this accused before trial Court and before Hon'ble High Court, Bombay are also rejected. This accused is main culprit and there is strong evidence against him. If accused is released on bail then he may tamper with prosecution's evidence. He may abscond during trial. Hence, bail application may kindly be rejected.

3] Heard Advocate Smt. Savita P. Shedbale for accused no.1 and Advocate Shri. M.H.Oak, Ld. Addl. PP for State.

4] It has been strongly submitted by Advocate Smt. Savita P. Shedbale that accused is arrested on 07.07.2023 and in the jail till today. i.e. for more than two years. While rejecting bail application of this accused, Hon'ble Bombay High Court ordered that if no substantial progress took place in the case within a year then bail should be granted to the accused. In this case, examination-in-chief of only one witness i.e. PW-1 Vinod Chavan is recorded and afterwards he did not turn up to the Court. Hence, fresh witness summons was issued against him and his cross examination is recorded on 18.08.2025. Trial was never prolonged by accused. Accused has extended cooperation for hearing of the case. The say submitted by complainant is false one. Therefore, bail application submitted by this accused may kindly be granted.

5] In support of this bail application, Advocate for accused has kept her reliance on a reported case ***Mukhtar Nasir Shaikh Vs. State of Maharashtra, Bail Application no. 449/2024, 2024:BHC-AS:12658*** in which it has been observed by Hon'ble Bombay High Court that, *"5. So far as the prosecutrix is concerned, I am informed that notice was issued to her by the trial Court on 19/01/2023 but since then she has not appeared before the trial Court to depose. It is further informed that though the trial has commenced, only 2 witnesses are examined. The trial is unlikely to conclude soon. The applicant does not appear to be a flight risk. The investigation is complete and the*

charge-sheet is filed. The applicant is in custody since 21/08/2022 for a period of 1 year and 6 months as an undertrial. The applicant will face the consequences if found guilty. The applicant cannot be incarcerated as a pre-trial punishment. In the facts and circumstances of the present case, I am inclined to enlarge the applicant on bail."

6] While opposing above mentioned submissions, it has been argued by Advocate Shri. M. H. Oak, Addl. PP for State, the alleged offence against the accused is of gang rape. After filing charge-sheet, bail applications submitted by this accused was rejected on merit. Hon'ble Bombay High Court has also rejected bail application preferred by this accused. Victim and her family members are not having permanent place of abode. Prosecution has taken efforts for securing presence of witnesses. Unless evidence of PW-1 is not completed, evidence of another witness cannot be recorded. On the last date, victim and her husband were present. On this backdrop, case may kindly be expedited and may be conducted on day to day basis. The case law produced by Advocate for accused is not applicable to the case in hand. Hence, the bail application may kindly be rejected.

7] In this case, investigation is completed and charge-sheet is filed against accused no.1 to 4 and four unknown persons under Sections 376, 376D, 323, 506, 342, 343 of Indian Penal Code, 1860, Section 3 (1)(w)(i)(ii), 3(2)(v), 3(1)(h), 3(2)(va),

3(1)(e), 6 of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act 2015 and under Section 16, 17, 18 of the Bonded Labour System (Abolition) Act, 1976. The punishment prescribed for alleged offence is rigorous imprisonment for a term which shall not be less than 20 years but which may extend to life which shall mean imprisonment for the remainder of that person's natural life with fine.

8] It is alleged that victim, her husband, her mother-in-law, her father-in-law were employed by this accused by giving advance of Rs.10,000/-.They were residing in a tin shed constructed in the agricultural land of this accused Hasan Latif Shakih situated at Sonawadi, Tal. Phaltan, Dist.Satara. Victim and above mentioned her relatives are belonging from Katkari caste and accused is Muslim by religion. After giving employment to victim and her relatives, this accused kept two sons of victim in his house. When husband of victim raised objection, this accused replied him that if he wants to keep his two sons with him, he will took his wife with him. After enquiry with all other employees, complainant and her husband came to know that their children are also kept by this accused in his house. Complainant-victim worked with this accused for four days. This accused was taking one son of complainant to his house and keeping another son with her. At night time, he was taking all three children of victim in his house.

9] It is further alleged that on 19.06.2023 at about 8:30 p.m. husband of victim went to house of this accused for giving food to his children. But he did not return to his house. Hence, victim switched off lamp and waiting for her husband in her hut. At that time, this accused Hasan Shaikh arrived near the hut of victim and threatened to all neighbouring labours in loud voice that they should not come out of their hut otherwise he will kill them. Then this accused entered into the hut of victim and demanded sexual pleasure with her. When victim refused for the same, this accused threatened her that if she wants her children and husband in good conditions she should allowed him to sleep with her. Though victim resisted this accused, he forcibly kept physical relations with her. Afterwards other four unknown colleagues of this accused have forcibly kept physical relations with victim. At that time victim pretended to be unconscious. At that time, this accused assaulted victim by fist and kick blows. When accused left the place victim concealing herself in a sugarcane crop. On the next day morning, her husband arrived and gave call to her. At that time, minor daughter was with him. Victim came out from the sugarcane crop and informed entire incident to her husband. At that time, on enquiry by victim, her husband replied her that their both sons were locked by this accused. Then, in the fear of assault by accused, victim and her husband left the place, went to several places i.e. Pandharpur, Lonavala etc. When they went to their native Mulashi, Post Jambhulpada, Taluka Sudhagade, District Raigad and narrated

incident to their relative Tukaram Ganya Ghogarkar. Then with the help of Shri. Ramesh Waghmare an Activist and Shri. Vivek Pandit, President of Shramjivi Sanghtana, complaint is lodged against all accused in Mandavi Police Station situated within the jurisdiction of Meera Bhainder Commissionerate. On the basis of said complaint this C.R.No.1360/2023 is registered against all accused on 07.07.2023 in Phaltan Rural Police Station. During investigation, name of this accused along with other accused namely, Papamiya Latif Shaikh, Maulana Latif Shaikh, Payal Hasan Shaikh and four unknown accused are revealed. After completion of investigation charge-sheet is filed against all accused on 02.09.2023.

10] In this case, charge against accused no.1 to 4 is framed at Exh.68 on 22.11.2024 under Sections 376, 376D, 323, 506, 342, 343, r/w. 34 of the Indian Penal Code, and under Section 3(1)(w)(i)(ii), 3(2)(v), 3(2)(va), 3(1)(e), 6 of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 and Section 16, 17 and 18 of Bonded Labour System (Abolition) Act. The maximum punishment prescribed for alleged offence is rigorous imprisonment for a term which shall not be less than twenty years but which may extend to life and fine. The said punishment itself shows the gravity of the alleged offence.

11] In this case, examination-in-chief of PW 1 Vinod Chavan who is of husband of victim is recorded on 25.02.2025.

Then further examination-in-chief of victim is recorded on 18.08.2025 and cross examination of PW 1 is taken by Advocate Smt. Savita P. Shedbale for accused no. 1 to 4 on the same day. Then cross examination of PW 1 is adjourned till next date on 18.08.2025. Since then till today PW 1 is not appeared in the Court and hence his cross examination is not completed.

12] It appears from record that victim, her husband and other six witnesses were present in the Court on 25.02.2025 but they were bound over and next date was fixed on 10.03.2025.

13] In this case, this accused has preferred Criminal Bail Application no. 584 of 2023 which is rejected by this court on 11.01.2024. Hence, applicant-accused preferred Criminal Appeal having No. 346/2024 under Section 14A of Scheduled Casts and Scheduled Tribes (Prevention of Atrocities) Act, 1989 before Hon'ble Bombay High Court. While rejecting said criminal appeal on 24.07.2024, it has been observed by Hon'ble Bombay High Court that delay in lodging F.I.R. *Epso facto* cannot be ground for enlargement of appellant on bail, imparting education of children in Zilla Parishad School cannot be considered as mitigating factor in favour of appellant for deciding bail application.

14] Hon'ble Bombay High Court has specifically further observed that, " 14) *Statements of the Complainant, her husband and her mother-in-law have been recorded under Section 164 of the Code which prima-facie indicate involvement*

of Appellant in the crime. Complainant's mother-in-law has stated in her statement given to the police on 8 July 2023 that she heard Appellant threatening other labourers not to come out of their hutments. She has further seen Appellant entering Complainant's hut. She has also heard Appellant asking the Complainant for sexual interaction under the threat of killing her husband and children. True it is that in the statement recorded under Section 164, she has not repeated all the statements made on 8 July 2023. However even in statement recorded under Section 164, she has clearly stated that all the three children of Complainant were locked by Appellant and that her husband, who had gone to the Village with tiffin did not return. She has further stated that Appellant threatened all the labourers and their families not to come out of the huts. Thus, presence of Appellant at the spot of the incident, as well as he giving threats to other labourers is clearly vouched by the mother-in-law even in her statement under Section 164.

15) So far as the statement of husband of the Complainant recorded under Section 164 is concerned, he has inter-alia stated that he was locked inside the house by Appellant and that he alongwith his three children remained so locked during the whole night and that he was released at 6.00 a.m. on the following day.

17) Be that as it may. Though there is some variance in statements of other labourers, Complainant, her husband and

mother-in-law prima facie appear to be firm in their version about Appellant's presence in the hut at the relevant time coupled with husband being kept locked in Appellant's house.

18) Considering the overall circumstances of the case, it is difficult to prima facie hold at this stage that the prosecution will not be able to prove the charges accused against Appellant. The modus operandi adopted by Appellant, who prima facie appears to be a source of terror amongst the labourers, by repeatedly threatening and assaulting them and their family members as well as going to the extent of illegally detaining their children in his custody is also required to be borne in mind. I am therefore of the view that releasing Appellant on bail at this juncture would not be in the interest of justice, particularly considering safety of the Complainant, her family members and other labourers who have given statements supporting Complainant's version. Complainant has been allegedly gangraped by four other unnamed persons, whose identity is still unknown. The learned Special Judge has rightly held that releasing Appellant at this stage would create threat of life to Complainant, her family members, as well as, the other labourers, who have given statements supporting her case. The learned Special Judge has also taken note of the fact that Complainant is consistent in her case about commission of gangrape upon her. Testimony of the Complainant is yet to be recorded. In such circumstances, it would not be appropriate to release Appellant on bail."

15] It is pertinent to note here that in this case this accused no.1 Hasan Latif Shaikh has preferred this bail application at Exh.84 on 29.01.2025. Then examination-in-chief of PW 1 the husband of victim-complainant is recorded on 25.02.2025. The Ld. Addl. PP for State has filed its say on said application at Exh.90 on 10.03.2025. Then on 02.04.2025, Advocate for accused submitted his written notes of argument in support of this bail application at Exh.91. Then Advocate for accused has produced xerox copy of Medico-Legal Certificate of father of accused on record along with Exh.100 on 05.07.2025. Then Advocate Smt. Savita P. Shedbale has appeared for accused vide Exh. 106 on 18.08.2025 and cross examined PW 1. In this case since on 18.08.2025, further cross examination of PW 1 is not completed. Record shows that on 18.08.2025, victim and her husband were present in the Court and they were bound over to appear on next date i.e. 26.08.2025. Then Advocate Smt. S. P. Shedbale for accused no.1 and prosecution have argued this bail application on 09.09.2025. The application at Exh.100 is came to be allowed by obtaining say of prosecution on 13.01.2026. In this case, complainant-victim has submitted her say at Exh.104. Above stated facts show that prosecution witnesses were present in the Court for deposition prior to 18.08.2025. So in view of this Court since framing of the charge on 22.11.2024, certainly there is progress in this case.

16] It appears from record that since 12.09.2025

Advocate for all accused and witnesses are absent. During said period Advocate Smt. Savita P. Shedbale was present on 16.10.2025 on Video Conferencing in another case and on 25.11.2025 and 19.12.2025 only. During above mentioned period prosecution has filed witness summons application at Exh.108 on 03.09.2025, the report of Police Station Officer at Exh.109 dtd. 09.09.2025 shows that witnesses had been to Karnataka State for employment and could not found. Report on witness summons at Exh. 115 and 116 dtd. 22.09.2025 shows that PW 1 Vinod Chavan, husband of victim and victim were not found on their given address as they have changed their address on the reason of employment. The said report is submitted by Raigad Police. Phaltan Rural Police submitted an application at Exh.118 on 20.11.2025 and submitted that PW 1 and complainant-victim are not having permanent residence at their village Wandroshi, Jambhulpada, Tal. Sudhagad, District Raigad. Report at Exh. 118 dtd. 20.11.2025 shows that when enquiry was made with Suresh Shedge resident of Wandroshi, Tal. Sudhagad, Dist. Raigad, it was informed that both complainant and her husband being a '*Katkari*' have no fixed place of abode. At that time, their previous employer namely, Ganesh Kedari was not found. Therefore, on request Phaltan Rural Police Station witness summons are reissued by passing order below Exh.118 on 20.11.2025. Phaltan Rural Police have filed another application at Exh.120 on 25.11.2025 and submitted that both above mentioned witnesses are working as labour workers on brick factory and on said

reason always challenging their addresses. In spite of taking their search in the remote places where they resided, they could not found. Therefore, Phaltan Police prayed for reissue of summons. By passing order below Exh.120, prosecution is directed to take effective steps for securing presence of witnesses and conducting the cases.

17] So all above stated facts clearly show that prosecution is trying to secure presence of witnesses but as said witnesses are not having permanent places of abode and as they are moving from one place to another place in search of job, their presence could not be secured. Entire facts of the case show that said witnesses were present in the Court on above mentioned dates and PW 1 complainant deposed in the Court and is under further cross examination. Considering above stated facts and gravity of the alleged offence, only because prosecution has failed to produce PW 1 for his further cross examination since 18.08.2025 and delay is causing for hearing of the case, it is not sufficient reason to release this accused on bail. Evidence of main prosecution witnesses namely victim, her mother-in-law and father-in-law are yet to be recorded. Complainant has raised objection to release this accused on bail by submitting her say at Exh.104. There are eye witnesses namely, Sunil Chandar Pawar, Draupada Sunil Pawar, Sadhu Mahadu Gavit and Mali Sadhu Gavit who are yet to be examined. Child witness Ganesh Vinod Chavan and Anita Vinod Chavan as well as other witnesses

Pramod Maruti Aadake, Balu Vitthal Jadhav, Baby Mehboob Shaikh, Shahnaz Ahmed Shaikh, Aman Asif Shikalgar, Sampat Harishchandra More, Malik Badshah Shaikh are supporting prosecution's case on the point of forced labour by children of workers employed by him. They are also yet to be examined. On the backdrop of above stated facts, it will not be just and proper to release this accused on bail at this stage. If accused is released on bail at this stage then there is possibility of pressurizing said witnesses by this accused. On this point, reference with profit can be made of a reported case ***Ansar Ahmad Vs. State of Uttar Pradesh and Anr. Criminal Appeal No. 1168 of 2023 (Arising out of SLP (CRL.) No. 8487 of 2021, with Criminal Appeal No. 1169 of 2023 (Arising out of SLP (CRL.) No. 8540 of 2021.*** In this case, alleged offence against accused is punishable under Sections 147, 148, 149, 307, 302, 120B r/w. 34 of Indian Penal Code, 1860 and Section 3 and 4 of the Explosive Substances Act, 1908. In this case, while canceling bail granted to accused by Hon'ble High Court of Judicature at Allahabad, Lucknow Bench, Lucknow, it has been observed by Hon'ble Apex Court that, *"11. We are of the view that in the case in hand, several important factors ought to have been kept in mind by the learned High Court while considering the prayer of the respondents for their enlargement on regular bail. The murder of Ashfaq Ahmad took place in broad day light. The occurrence has been witnessed by the appellant and two more eye witnesses. Two of the accused were nabbed at the spot. It was apparently a case of contract killing.*

There is material to indicate the motive behind the commission of gruesome murder of Ashfaq Ahmad.....".

"12. The other important factor is that Razi Ahmad Manu is one of the eye witnesses. He is yet to depose as a prosecution witness. Though not as a general rule but it is expedient and is always in the interest of criminal justice system that the prayer for bail is considered after ensuring that the statements of the vital witnesses stand recorded and there is no likelihood of influencing or tampering their evidence."

"13.....Learned Additional Advocate General informs that till date, only one witness has been examined. It is the solemn duty of the Court to ensure that while extending the protection of liberty to an accused within the meaning of Article 21 of the Constitution, the interest of the prosecution is equally protected and the concession of bail should not be allowed to be misused to the prejudice of the prosecution of the victim."

"18.....It may be true that an accused cannot be permitted to be languished in jail indefinitely but the Courts while considering the bail application need to wait for the appropriate stage where such a relief can be granted without any adverse impact on the prosecution case. That stage is yet to reach in the present trial as some of the crucial eye witnesses are yet to depose."

18] On the backdrop of facts of the case in hand and

above stated reasons, case laws relied upon by Advocate for accused is not applicable to this case. All above stated facts show that prosecution is having strong prima facie case against accused. Hence, considering nature and gravity of the alleged offence only because of delay caused in examining witnesses, it will not be just and proper to release this accused on bail at this stage. Hence, for all above stated reasons, this application is devoid of merit and requires to be rejected.

19] Hence, I proceed to pass the following order.

ORDER

The bail application at Exh.84 is hereby rejected.

PHALTAN

Date : 22/01/2026

(R. S. Patil-Bhosale)

Addl. Sessions Judge, Phaltan.

CERTIFICATE

I affirm that the contents of this P. D. F. file order are word to word as per original.

Name of Stenographer: Sau. Tanuja S. Bagal, Stenogra