

Urmila Ingale

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPEAL NO. 351 OF 2017

1. Sandip Suryakant Jadhav

Age – 36 Yrs, Occ: Agri.

2. Uday Balwant Jadhav

Age – 28 Yrs, Occ: Agri.

3. Samadhan Suryakant Jadhav

Age – 30 Yrs, Occ: Agri.

4. Abhay Balwant Jadhav

Age – 25 Yrs, Occ: Agri.

5. Navnath Kalyan Jadhav

Age – 25 Yrs, Occ: Agri.

6. Vasant Bajirao Jadhav

Age – 75 Yrs, Occ: Agri.

All R/o Chimangaon, Tal. Koregaon
Dist. Satara

.. Appellants

Vs.

1. The State of Maharashtra
(At the instance Dy.S.P. Koregaon
Tal. Koregaon, Dist. Satara

2. Shri Mahadev Srirang Bale
Age : 31 years, Occ. Agri.
R/O Chimangaon, Tal. Koregaon
Dist. Satara

.. Respondents

Mr.Rahul K. Dhaygude, for the Appellants.
Mr.H.J.Dedia, APP for State.

**CORAM : SMT. V.K.TAHILRAMANI &
M.S.KARNIK, JJ.**

26th APRIL, 2017

ORAL ORDER (PER SMT. V.K.TAHILRAMANI, J.) :

1. Heard both sides.
2. This Appeal is preferred by the appellants No.1 to 6 against the order dated 05/04/2017 passed by the learned Special Judge and Additional Sessions Judge, Satara in Criminal Bail Application No. 128 of 2017. This bail application was preferred by all the appellants seeking anticipatory bail in C.R. No. 55 of 2017 registered with Koregaon police station, District Satara. The said C.R. is under sections 143, 147, 148, 324, 504, 506 read with 149 of IPC and section 3(1) (x) of the Scheduled Caste and Scheduled Tribe (Prevention of Atrocities) Act, 1989 (for short 'Atrocities Act'). By order dated 05/04/2017, the Bail Application No. 128 of 2017 preferred by all the appellants came to be rejected. Hence, this Appeal.

3. It is the case of the complainant that some verbal altercation took place between him and Samadhan Jadhav. Samadhan Jadhav then went away. He then received a phonecall from his father that the present appellants had come to their house and Abijeet Jadhav had slapped his father. The complainant then immediately went home. Then all the 6 accused (appellants) assaulted him and his parents with fist and kick blows and wooden log. In addition the complainant has stated that appellant No.1 abused him in relation to his caste and threatened him.

4. It is pertinent to note that the complainant has not stated that except Sandip Jadhav any of the other accused abused him in relation to his caste. There is nothing on record to show that any of the other appellants shared the common intention with Sandip Jadhav to abuse the complainant in relation to his caste. None of the appellants No. 2 to 6 has uttered any word in relation to the caste of the complainant. Hence, we are of the opinion that the provision of Atrocities Act

would not be applicable to the appellants No. 2 to 6 and they would be applicable only to appellant No.1. In this view of the matter, we are not inclined to grant anticipatory bail to appellant No.1.

5. However, as far as appellants No. 2 to 6 are concerned, the names of the appellants No. 2 to 6 are found in FIR. The role attributed to them is that they have assaulted the complainant and his parents with fist blows, kick blows and wooden log. In the FIR no role of abusing the complainant or any of his family members in relation to caste is attributed to appellants nos. 2 to 6. We have also perused the injury certificate of the complainant and his parents which shows that they all had sustained simple injuries. The history given by the complainant when he was medically examined is that he was assaulted with hand and one C.L.W was found on his body which was a simple injury. It is pertinent to note that in his FIR, the complainant has stated that he was assaulted by fist and kick blows and by wooden log, however, the history given by the

complainant to the doctor is only assault by hand. As far as father of the complainant is concerned, he has also sustained simple injury on his hand and on his scapula. The mother of the complainant has sustained one simple injury i.e. abrasion on her left hand. Thus, it is seen that the injuries are simple injuries and superficial in nature. Looking to the facts of this case and the nature of the injuries, we are inclined to grant anticipatory bail to the appellants No. 2 to 6. As far as appellant No.1 is concerned, his prayer for anticipatory bail is rejected. As far as appellants No.2 to 6 are concerned, we pass the following order :

ORDER

1. In the event of arrest, each of the appellants No. 2 to 6 to be released on bail in the sum of Rs.25,000/- each with one or two sureties to make up the said amount and P. R bond in like amount.
2. The appellants No. 2 to 6 shall report to Koregaon Police Station, Dist. Satara from 03/05/2017 between 11.00 a.m. to 1.00 p.m. for a period of 7 days and thereafter as and when called.

6. Appeal is allowed in the above terms.

(M.S.KARNIK, J.)

(SMT. V.K.TAHILRAMANI, J.)