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

CRIMINAL APPEAL NO.624 OF 2020

Mohan s/o Bajrangsinh Thakur

..APPELLANT

VERSUS

The State of Maharashtra & anr.

..RESPONDENTS

Mr P. P. More, Advocate for appellant;

Mr R. D. Sanap, A.P.P. for respondent No.1;

Mr M. V. Salunke, Advocate (appointed) for respondent No.2

**CORAM : RAVINDRA V. GHUGE
AND
B. U. DEBADWAR, JJ.**

DATE : 22nd December, 2020

PER COURT:

1. By this appeal, the appellant - Mohan Bajrangsinh Thakur seeks anticipatory bail in connection with the first information report bearing Crime No.361 of 2020, registered on 23rd October, 2020, with the Mukhed Police Station, Tq. Mukhed, Dist. Nanded, for having allegedly committed offences punishable under Sections 307, 325, 324, 323, 504, 506 read with Section 34 of the Indian Penal Code and Sections 3 (i) (r and s) and 3 (ii) (s) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 (hereinafter in short 'the 1989 Act').

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2. We have heard the learned Advocates for the appellant and the original complainant - respondent No.2 and the learned Prosecutor on behalf of the first respondent - State. With their assistance, we have perused the first information report and it is brought to our notice that the complainant has corrected his first information report by filing a supplementary complaint informing that one of the accused Pravin Thakur is actually Mohan Thakur (present appellant).

3. We find from the first information report that Ranjit Thakur, Ganesh Thakur, Mohan Thakur (wrongly named as Pravin Thakur in first information report) and Ganesh Nithure are alleged to have assaulted the complainant and Mr Madhav Gadave, who had tried to intervene and protect the complainant from the assault by the four accused.

4. The contents of the first information report indicate that these four accused had arrived at a hotel at about 9.30 p.m. on 22nd October, 2020 at Hipparga (De). All these four accused are the residents of village Hipparga and the complainant and his friend Madhav Gadave are the residents of village Jamb, Taluka Mukhed, District Nanded. It is alleged in the first information report that these four persons knew that the complainant belongs to the Scheduled Tribes and made the utterances like 'Kalgatya', 'Adivasi', 'Kolya', 'Haramkhor' and used

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foul language. Thereafter, Ganesh Thakur assaulted the complainant with a iron rod on his head and injured him. Ranjit Thakur assaulted the complainant by a iron rod by inflicting an injury on his back. Ganesh and the appellant Mohan assaulted the complainant with kicks and fists. When the complainant's friend Madhav tried to protect the complainant, all four accused assaulted him and Ranjit Thakur and Ganesh fractured the leg of Madhav Gadave.

5. The learned Advocate for the second respondent and the learned Prosecutor have strenuously opposed the appeal contending that the custodial interrogation of the appellant is necessary. The main accused were arrested on 29-10-2020 and were granted regular bail on 4-11-2020 by the Trial Court. The present appellant Mohan is hoodwinking the law.

6. We find that the appellant resides in a different village and it is a matter of circumspection as to whether he is aware of the scheduled tribe of the complainant. It is not set out in the first information report that these four accused were known to the complainant or that the complainant was very well known to them. The contents of the first information report indicate that a casual look given by the complainant towards these four persons, as two of them were carrying iron rods in their hands, led to Ranjit and Ganesh questioning the complainant as to

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why he was staring at them. This was the flash point which resulted in abusing the complainant and when the complainant questioned these accused, as to why were they abusing him, Ranjit and Ganesh appear to have commenced the assault followed by the appellant and Ganesh Nithure.

7. We have perused the provisions of the 1989 Act, which have been invoked in the first information report and we have specifically given our attention to Section 18 of the said Act, which reads as under :

“18. Section 438 of the Code not to apply to persons committing an offence under the Act.—Nothing in section 438 of the Code shall apply in relation to any case involving the arrest of any person on an accusation of having committed an offence under this Act.”

8. Prima facie, we are of the view that the contents of the first information report do not indicate that the accused were acquainted with the complainant. If they were not acquainted with him, it is a matter of circumspection, as to whether they were aware that he belongs to the scheduled tribe.

9. The learned Advocate for the appellant submits that he is willing to abide by the conditions as may be imposed by this Court for being

granted anticipatory bail.

10. The learned Advocate for the second respondent submits that there is a growing tendency to look down upon the people of belonging to the scheduled castes and scheduled tribes. People have stopped respecting the law and are abusing people from the backward classes, day in and day out in full public view. Such tendencies need to be curbed and if this Court is inclined to consider this appeal for granting anticipatory bail, stringent conditions should be imposed upon the appellant in order to send out a message loud and clear to the society.

11. In view of the above, this appeal is allowed. In the event of arrest, the appellant - Mohan Bajrangsinh Thakur shall be released on bail on the following conditions :-

(a) The appellant shall furnish a solvent surety of an amount of Rs.50,000/- with a P.R. Bond and a surety for the like amount.

(b) He shall not enter the village Jamb in which the complainant resides along with Madhav Gadave. This condition shall be strictly complied with, keeping in view that the distance between the village of the appellant (Hipparga) and the village

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of the complainant (Jamb) is only five Kms.

(c) He shall mark his attendance with the Mukhed Police Station every Tuesday and Friday, in between 10.00 a.m. and 1.00 p.m., until filing of the charge-sheet.

(d) The SHO of Mukhed Police Station shall record the attendance of the appellant by obtaining his signature in the Station House Diary.

(e) The appellant shall not attempt to contact the complainant or any of his relatives or any such person who is likely to be a witness in the case, directly or indirectly, and shall refrain from tampering with evidence.

(f) The appellant, until the trial in this case is completed, shall not involve himself in any other offence or crime.

(h) Violation of any of the conditions shall be a good ground for the cancellation of the bail.

12. Since we had appointed Shri Salunke, learned Advocate through the High Court Legal Services Sub-Committee, Aurangabad, we quantify his fees at Rs.5,000/- which shall be paid by the High Court Legal Services Sub-Committee, Aurangabad.

(B. U. DEBADWAR, J.)

(RAVINDRA V. GHUGE, J.)

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