

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO.1445 OF 2019

**DEEPAK KASHINATH BACCHAV
AND ANOTHER**

... APPELLANTS.

VERSUS

**THE STATE OF MAHARASHTRA
AND ANR.**

... RESPONDENTS.

Mr.Purshottam Chavan, Advocate a/w Advocate Rajesh
Jadhav, for the appellants.

Mr.AR Kapadnis, Additional Public Prosecutor for the State.

CORAM : A. M. BADAR, J.

DATE : 12TH MARCH 2020.

P.C.:

1. By this appeal u/s 14-A of the Scheduled Castes and Scheduled Tribes (Protection of Atrocities) Act, 1989, (hereinafter to be referred to as the 'Atrocities Act' for the sake of brevity) the appellants/original accused are praying for

quashing and setting aside order dated 18.10.2019 passed by the learned Special Judge, Nashik, thereby rejecting application for pre-arrest bail bearing No.1719 of 2019 filed by the applicants in crime No.135/2019 for offences punishable u/s 326, 324, 143, 147, 148, 149 of the Indian Penal Code as well as Section 3(1)(R)(S) of the Atrocities Act registered with the police station Deola, Nashik.

2. Heard learned counsel appearing for the applicants. He drew my attention to the First Information Report lodged by respondent no.2 Dinesh Hiranman Baste on 26.09.2019 and submitted that the alleged incident according to this First Information Report, took place at about 7.30 p.m. of 25.09.2019. He further drew my attention to the First Information Report lodged by Santosh Balu Jadhav on 26.09.2019 and argued that the respondent no.2 herein/First Informant had assaulted Santosh Jadhav at about 5.30 pm on 25.9.2019 at Chatrapati Hotel and accordingly, crime

No.136/2019 came to be registered against him on 26.9.2019. With this, it is argued that it is not probable that respondent no.2/First Informant was present on the spot of incident where the subject crime took place. It is further argued that the incident according to the First Information Report did not take place within public view and therefore, bar of Section 18 or 18-A of the Atrocities Act is not applicable to the case in hand.

3. As against this, the learned Additional Public Prosecutor submitted that there are two eye witnesses to the incident and version of respondent no.2/First Informant is corroborated by the medical evidence.

4. I have considered the submissions so advanced and also perused the case diary.

5. First Informant/respondent no.2 Dinesh Baste while

being admitted at Malegaon General Hospital had lodged First Information Report on 26.09.2019 with averment that when he was at his house, at about 7.30 p.m., of 25.9.2019 both the applicants along with 4 other persons, entered in his house, gave him casteist abuses and assaulted him by means of iron bar.

6. Sujata Baste and Vimal Baste are the two eye witnesses to the incident and they have supported the version of respondent no.2/first informant.

7. Injury Certificate issued by the Civil Hospital, Malegaon shows that, respondent no.2 Dinesh Baste was admitted to the said Hospital on 25.9.2019 with blunt injuries to his head apart from the contused lacerated wounds.

5. Considering this nature of evidence against present applicant, the case in hand can not be said to be a case of

false implication of applicants in the subject crime. The previous incident happened at some other place wherein it is alleged that respondent no.2 has assaulted Santosh Balu Jadhav, can not be used for inferring innocence of applicants.

8. Considering the nature of crime and the manner in which it was committed, no case for grant of pre-arrest bail is made out. Application, therefore, is rejected.

9. Request is made for continuing ad-interim anticipatory bail for a period of 4 weeks. Once it is held that the applicant are not entitled for pre-arrest bail, request to continue ad-interim pre-arrest bail is rejected.

(A. M. BADAR, J.)