

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

CRIMINAL APPEAL NO.314/2020

Sharad S/o. Jagan Ghonge
 Aged 25 years, Occu. Agriculturist
 R/o. Bamkhed, Tah. Deulgaon Raja
 Dist. Buldana.

.....APPELLANT

...V E R S U S...

- 1) State of Maharashtra, through P.S.O.,
 Police Station Sindkhedraja,
 Dist. Buldana

- 2) Babasaheb Asaram Navgire
 Aged 45 years, Occu. Agriculturist,
 R/o. Bamkhed, Tah. Deulgaon Raja,
 Dist. Buldana.

...RESPONDENTS

 Shri Purushottam Patil, Advocate for appellant.
 Ms. M.H. Deshmukh, A.P.P. for respondent No.1/State.
 Respondent No.2 Served.

CORAM:- VINAY JOSHI, J.
DATED :- 27/10/2020

ORAL JUDGMENT

1. Admit. Heard finally with consent of learned counsel appearing for the parties.

2. The challenge in this appeal is to the order dated 27/08/2020 passed by Additional Sessions Judge, Buldana by which the Court has denied to grant pre-arrest protection to

the appellant in connection with Crime No.139/2020 registered at Sindkhedraja Police Station relating to the offence punishable under Sections 323, 504, 506 read with Section 34 of the Indian Penal Code and Section 3(1) (r) (s) of the Scheduled Caste and Schedule Tribe (Prevention of Atrocities) Act.

3. The appellant has claimed bail on usual grounds. Beside that Shri Patil, learned counsel for appellant would submit that the material witnesses named in First Information Report have denied their presence at the time of occurrence. It is submitted that as per directions of this Court, the appellant has attended police station as well as furnished bail bonds.

4. Learned A.P.P. resisted the appeal vide reply/affidavit. It is submitted that medical certificate of victim discloses that he sustained blunt trauma. Moreover, since there are eye-witnesses to the incident, the appellant does not deserve for bail.

5. Learned A.P.P. made a statement that respondent no.2 is served with the notice of this appeal.

6. Perusal of the First Information Report discloses that there happened to be a quarrel at the instance of tying the cattle at water tap. The incident is in two parts, wherein after the first occurrence, the appellant allegedly came to the place of occurrence and abused the informant in the name of caste. This Court while granting interim protection vide order dated 10/09/2020 has considered that the eye-witnesses named in the First Information Report have denied their presence at the time of occurrence. The question regarding applicability of the provisions of Scheduled Caste and Scheduled Tribe (Prevention of Atrocities) Act requires consideration.

7. Having regard to the nature of offence, nothing is to be seized from appellant. There is no complaint that during the release of interim bail, appellant had misused the liberty. Moreover, reply/affidavit discloses that appellant had attended the police station as directed. Having regard to

these circumstances, there is no reason to curtail the protection which has been already granted.

8. In view of above, Criminal Appeal is allowed. The impugned order dated 27/08/2020 passed by Additional Sessions Judge, Buldana is quashed and set aside. Interim protection granted by this Court vide order dated 10/09/2020 is hereby made absolute with clarification that appellant shall attend concerned police station as and when called.

Appeal is disposed of accordingly.

JUDGE

R.S. Sahare