

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

CRIMINAL APPEAL NOS. 351 & 429 OF 2020.

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CRIMINAL APPEAL NO. 351 OF 2020.

Ajay s/o Purushottam Kokate,
Aged about 23 years, Occupation
Private Job, resident of Warud,
Taluq Shegaon, District Buldhana.

... **APPELLANT.**

VERSUS

1.State of Maharashtra,
through Police Station Officer,
Police Station, Khamgaon Rural,
Taluq Khamgaon, District Buldhana.

2.Dharampal Samadhan Bhojane,
Aged about 37 years, Occupation
Not known, resident of Warud,
Taluq Shegaon, District Buldhana.

... **RESPONDENTS.**

WITH

CRIMINAL APPEAL NO. 429 OF 2020.

Pavan s/o Pundlik Kokate,
Aged about 21 years, Occupation
Education, resident of Warud,
Taluq Shegaon, District Buldhana.

... **APPELLANT.**

VERSUS

1.State of Maharashtra,
through Police Station Officer,
Police Station, Khamgaon Rural,
Taluq Khamgaon, District Buldhana.

2.Dharampal Samadhan Bhojane,
Aged about 37 years, Occupation
Not known, resident of Warud,
Taluq Shegaon, District Buldhana.

... **RESPONDENTS.**

Shri A.M. Tirukh, Advocate for Appellants.
Ms. H.N. Jaipurkar, A.P.P. for Respondent No.1.
Ms. R.V. Palaspagar, Advocate for Respondent No.2.

CORAM : VINAY JOSHI, J.

DATE : DECEMBER 18, 2020.

ORAL JUDGMENT :

Heard. **Admit.**

Considering the controversy involved and with consent of learned Counsel present for the parties, the matter is taken up for final disposal.

2. Both appeals arise out of Crime No. 157/2020, registered at Police Station Khamgaon Rural relating to offence punishable under Sections 323, 504, 506, 34 of Indian Penal Code and Section 3[1][r], [s] of the Scheduled Caste and Scheduled

Tribes (Prevention of Atrocities) Act, 1989. Appellants request for release on bail has been rejected by the Trial Court, hence, both are before this Court by way of present Appeals.

3. Contents of First Information Report discloses that the informant alleged that on the date of occurrence initially there were general abuses and then particularly accused no.1 Lokesh abused the informant in the name of caste. Thereafter, both the appellants caught hold the informant on which accused Lokesh beaten him. Apparently the allegations against the appellants does not relate to abuse in the name of caste, and rest of the offences are of bailable in nature.

4. Having regard to the nature of accusation nothing is to be seized from appellants. The learned Counsel for appellants would submit that the co-accused Lokesh and Shrikrushna both are released on bail by this Court. Already both appellants have been protected by interim order. Reply-affidavit nowhere suggest that appellants have misused the liberty or there are any reasons to put them in custody. In view of that, following order is passed.

- (i) Criminal Appeals are allowed.
- (ii) Impugned orders passed in Anticipatory Bail

Application No.317/2020 dated 03.09.2020 and in Anticipatory Bail Application No.371/2020 dated 08.10.2020 by the Special Judge Khamgaon, are quashed and set aside.

- (iii) Interim order relating to Appellant – Ajay Kokate in Criminal Appeal No. 351/2020 dated 24.09.2020, so also interim order passed in case of Pavan Kokate in Criminal Appeal No. 429/2020 dated 06.11.2020 is made absolute on the same terms and conditions.

JUDGE

Rgd.