

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPEAL NO.269 OF 2021

1. Chetan Gorakh Deshmukh
2. Pawan Gorakh Deshmukh
3. Bhupendra Gorakh Deshmukh
4. Gorakh Shankar Deshmukh ... **APPELLANTS**

VERSUS

The State of Maharashtra & anr. ... **RESPONDENTS**

.....
Shri R.S. Shinde, Advocate holding for
Shri N.L. Chaudhari, Advocate for appellants
Shri P.N. Kutti, A.P.P. for respondents – State
.....

CORAM : R. G. AVACHAT, J.
(VACATION COURT)

DATE : 25th MAY, 2021

ORDER :

The challenge in this appeal is to the order dated 10/5/2021, passed by Additional Sessions Judge, Dhule in Anticipatory Bail Application No.370/2021. By the impugned order, the appellants have been denied anticipatory bail. Hence the appeal.

2. Heard. The F.I.R. has been lodged by the mother

of Yashraj Ahire on 6/4/2021. The F.I.R. pertains to the incident dated 2/4/2021. It is alleged in the F.I.R. that, at about 8.00 p.m. on 2/4/2021, the appellants came to the courtyard of the informant's house. The appellant Pawan was armed with a sickle. The appellant Chetan was armed with an iron rod. A stick was in the hands of Bhupendra (appellant No.3). They questioned the informant as to whereabouts of her son Yashraj. The informant claims to have belonged to Scheduled Caste. The trio abused her over her caste. They entered the informant's house and took search for her son Yashraj. Since Yashraj was not at home, the trio left. After some time, Yashraj and his father Dipak came home. The informant told him that the trio were in search of Yashraj. Both of them, therefore, left the house on motorbike. Meanwhile, Rahul Bajaj came home and informed that the appellants had been assaulting the informant's sons and her husband in front of their hotel. The informant, therefore, went there. The appellant Chetan assaulted Yashraj with an iron rod. Appellant Pawan assaulted the informant's husband with a sickle. The informant requested the appellants not to beat up her family members. They did not listen. They abused her over her caste. Meanwhile, the informant's brother-in-law, nephew and others came and they took the

injured to the hospital.

3. The learned Additional Sessions Judge rejected the application considering the nature of offence.

4. The learned A.P.P. urged for dismissal of the appeal on the ground that no anticipatory bail can be granted in respect of the offence punishable under the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989.

5. Two rival F.I.Rs. have been lodged relating to the same incident. When a war breaks out, truth is the first casualty. Possibility of exaggeration of the incident cannot be ruled out. Moreover, the appellant on one hand and the informant and injured on the other have arrived at an understanding. A writing to that effect has been executed. They have settled their dispute and agreed to live with peace. As such, the allegations in the F.I.R. get diluted. With a view to give peace a chance, I am inclined to allow the appeal. Hence the order :-

ORDER

6. The appeal is allowed. The order dated 10/5/2021, passed by learned Special Judge (Additional Sessions Judge), Dhule below Exh.1 in Criminal Bail Application No.370/2021 is set aside. In the event of arrest of the appellants in connection with C.R. No.53/2021, registered at Shindkheda Police Station, District Dhule for the offence punishable under Sections 452, 324, 323, 504, 506 read with Section 34 of the Indian Penal Code, Sections 3(1) (r), 3(1)(s) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 and Section 7(1)(d) of the Protection of Civil Rights Act, the applicants shall be released on bail on their executing P.R. bond in the sum of Rs.15,000/- (Rupees fifteen thousand) each with one surety in the like amount.

7. The appellants shall appear before the investigating officer as and when required. The appellants shall not tamper with the prosecution evidence.

(R. G. AVACHAT)
JUDGE

fmp/-