

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

939 CRIMINAL APPEAL NO.289 OF 2021

**GANESH NANASAHEB GIDHE AND OTEHRS
VERSUS
THE STATE OF MAHARASHTRA AND ANOTHER**

Mr. S. S. Thombre, Advocate for the appellant
Mrs. G. L. Deshpande, APP for the respondent/State

CORAM : N. R. BORKAR, J.

DATE : 26-11-2021

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. This appeal takes an exception to the order dated 02-06-2021 passed by the Additional Sessions Judge, Aurangabad in Criminal Bail Application No. 910 of 2021.

2. The appellants who are accused in Crime No. 65 of 2021, registered at Deogaon Rangari Police Station, Dist. Aurangabad for the offences punishable under Section 323 & 504 read with Section 34 of the Indian Penal Code and Section 3(1)(s), 3(2)(va) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act had filed the application for anticipatory bail. The said application came to be rejected by the order

impugned.

3. I have heard the learned counsel for the appellants and the learned APP for the respondent/State.

4. The learned counsel for the appellants submits that the appellants have been involved in the false case due to political rivalry.

5. It is further submitted that there are statements of witnesses in the charge-sheet who have stated that on the day of incident, it was the complainant who was abusing the appellant No.1 under the influence of liquor and not the appellants. It is submitted that considering the facts and circumstances, the appellants be released on anticipatory bail.

6. On the other hand learned APP for the respondent/State submits that there is a bar to entertain the anticipatory bail application under the Atrocities Act. It is further submitted that there are independent witnesses to the incident according to whom the present appellants did abuse

the complainant on his caste. It is submitted that the appeal, thus needs to be dismissed.

7. According to the complainant he was abused on caste so also he was assaulted by fighter. However, the injury certificate does not reveal any bleeding injury to complainant even though according to him he was assaulted by three persons that too by the fighter. According to the injury certificate only one simple injury was found on the person of the complainant. Apart from it, perusal of the statement of Chandrabhan Gidhe reveals that at the time of incident the complainant was under the influence of liquor and the complainant was abusing the appellant No. 1. He has further stated that nobody had abused the complainant on his caste. This court has already granted the interim anticipatory bail to the present appellants by the order dated 17-06-2021.

8. Considering the facts and circumstances, the said interim anticipatory bail needs to be confirmed. Hence the following order.

ORDER

i. The appeal is allowed.

ii. The order dated 02-06-2021 passed by the Additional Sessions Judge, Aurangabad in Criminal Bail Application No. 910 of 2021 is quashed and set aside.

iii. In the event of arrest of appellants in connection with the Crime No. 65 of 2021, registered at Deogaon Rangari Police Station, Dist. Aurangabad for the offences punishable under Section 323 & 504 read with Section 34 of the Indian Penal Code and Section 3(1)(s), 3(2)(va) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, they shall be released on bail on furnishing PR bond of Rs. 25,000/- [Rs. Twenty Five Only] each with one surety in the like amount.

iv. The appeal is disposed of.

[N. R. BORKAR, J.]