

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

CRIMINAL APPEAL NO.324 OF 2021

Gajanan s/o Bhagwanrao Mogal
Age 28 years, Occu: Agrilcuture,
R/o Nagthana, Tq. Selu

.. APPELLANT

VERSUS

1] The State of Maharashtra
Through Police Station,
Selu, Dist.Parbhani.

2] Rajebhau s/o Nagorao Kharat
Age 35 years, Occu : Labour,
R/o Khupsa,Tq.Selu
Dist.Parbhani.

.. RESPONDENTS

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Adv.Mr. S.J.Salunke for appellant
A.P.P. Mr.R.B.Bagul for respondent no.1.
Adv. Rajendra Wagh for Respondent no.2.

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**CORAM : MANGESH S. PATIL
DATE : 27/07/2021**

ORAL JUDGMENT :

Heard.

2] **Admit.** With the consent of both the sides, the matter is heard finally
at the stage of admission.

3] This is an appeal under Section 14-A(2) of the Scheduled Castes and
Scheduled Tribes (Prevention of Atrocities) Act, 1989 (hereinafter referred

as Atrocities Act) being aggrieved and dissatisfied by the order passed by the learned Special Judge refusing to release the appellant on bail under Section 439 of the Cr.P.C. in connection with Crime No.164/2021 registered with Selu Police Station, Dist.Parbhani for the offence punishable under Section 324 of the I.P.C. and Sections 3(1)(r), 3(2)(va) of the Atrocities Act.

4] I have heard the learned advocate for the appellant, the learned A.P.P. and the learned advocate Mr.Wagh for the respondent no.2 informant. I have perused the papers of the investigation.

5] Needless to state that since the appellant is claiming regular bail under Section 439 of the Cr.P.C. bar under Sections 18 and 18-A of the Atrocities Act would not be attracted which prevents grant of anticipatory bail.

6] It is being alleged that the appellant was not knowing the informant and asked him his caste and then assaulted him. When the informant reported the matter to his master, both of them approached the Dispute Redressal Committee wherein the informant pointed at the appellant to be the person who had assaulted him whereafter the appellant again assaulted him.

7] Irrespective of the veracity or otherwise of the allegations, it is a matter of record that no strong motive is being attributed to the appellant. He is only alleged to have assaulted the informant on two occasions. The offence punishable under Section 324 of the I.P.C. is being invoked. The appellant was arrested on 20/6/2021 ie more than a month and quarter ago. The Investigating Officer must have had

sufficient opportunity to conclude the investigation. There is no likelihood of the trial being held expeditiously.

8] Considering all the facts and circumstances, though there can be a plausible reason for the learned Special Judge to refuse bail since the investigation at that stage was in progress, by the passage of time, the appellant is now entitled to bail.

9] The Appeal is allowed. The impugned order is quashed and set aside. The appellant shall be released on bail on his executing personal recognizance for an amount of Rs.15,000/- (Rs.Fifteen thousand only) and furnishing a solvent surety in the like amount subject to following conditions :

a] He shall attend the concerned Police Station as and when called by the Investigating Officer and shall cooperate him.

b] He shall not tamper the evidence or influence the witnesses.

10] Bail before the trial Court.

11] Mr.Wagh, learned advocate has been appointed to represent the respondent no.2. His fees is quantified at Rs.2000/-.

(MANGESH S. PATIL, J.)