

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPEAL NO. 354 OF 2021

1. Ganesh s/o Shamrao Jadhav
Age : 43 years, Occu: Agril.
2. Gopinath @ Abhayasing S/o Shamrao Jadhav,
Age : 23 years, Occu: Education,
Both R/o Khadka, Tq. Ghansavangi,
Dist. Jalna ... Appellants

VERSUS

1. The State of Maharashtra
Through Police Station,
Ghansavangi, Dist. Jalna.
2. Balasaheb s/o Abhiram Sonawane,
Age : 29 years, Occu : Labour.
R/o Khadka, Tq. Ghansavangi,
Dist. Jalna. ...Respondents

Mr S.J. Salunke, Advocate for Appellants
Mr Shashibhushan P. Deshmukh, APP for Respondent No.1-State
Mr M.B. Sandanshiv, Advocate for Respondent No. 2

**CORAM : V.K. JADHAV AND
SHRIKANT D. KULKARNI, JJ.**

DATE : 17th AUGUST, 2021

PER COURT :

1. The appellants are seeking regular bail in connection with the crime bearing No. 191/2021 registered with Ghansavangi Police Station, Dist. Jalna for the offence punishable under sections 307, 324, 323, 143 of Indian Code and under sections 3(1) (r) 3(1) (s) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989. Their application with similar prayer bearing No. 177/2021 came to be rejected by the learned Additional Sessions Judge, Ambad, Dist. Jalna by order dated 07.07.2021.

2. The learned counsel for the appellants submits that the appellants came to be arrested in connection with the present crime on 06.07.2021. Investigation is almost completed and the formalities of filing of charge sheet is only remained. The learned counsel submits that the informant and the other injured persons have not sustained any serious injury. Both the appellants are agriculturists by occupation. There are no antecedents. The appellants are ready to furnish the surety as directed by this Court and also ready to abide the condition as not to enter within the limits of village Khadka, Tq. Ghansavangi, Dist. Jalna till filing of the charge sheet, the appellants may be released on bail.

3. The learned counsel for respondent No. 2 submits that the names of the appellants are mentioned in the F.I.R. with specific role attributed to each of them. The appellant No. 1 has assaulted the informant and other witnesses by using a stick and appellant No. 2 has used the weapon axe in the assault. Appellant No. 1 - Ganesh has caused injury on the right eye of the informant by giving a blow of stick whereas appellant No. 2 has caused injury on the head of the witness Sunil with the help of axe. Both the appellants have abused the informant and his other family members by referring their caste at public place. Investigation is still going on. There is possibility of tampering with the prosecution evidence. The appellants may not be released on bail.

4. The learned A.P.P. submits that the charge sheet is yet not submitted. Prima facie, there is strong case against both the appellants,

and therefore, the appellants may not be released on bail.

5. We have carefully perused the police papers. It appears that the informant, injured witness Sunil and other two witnesses are sustained simple injuries in the alleged assault. It further appears that the incident has taken place on account of the dispute in respect of the agricultural land. The appellant No. 1 allegedly used the stick in the assault. So far as appellant No. 2 is concerned, he allegedly used the weapon axe in the assault. However, in the medical certificate of the informant and the injured person, we do not find any injury on the person of any of them caused by hard and sharp weapons. Investigation is almost over and the formality of filing of charge sheet is remained to be completed. Both the appellants are agriculturists by occupation, borne and brought up in village Khadka, Tal. Ghansavangi, Dist. Jalna. There are no antecedents.

6. It is also necessary to consider that the other co-accused persons 15 in number are already released on bail by the Sessions Court. Thus, considering the entire aspect of the case, we are inclined to release the appellants on bail by imposing certain conditions. Hence the following order :-

ORDER

(I) The Criminal Appeal is hereby allowed.

(II) The appellant No. (1) Ganesh s/o Shamrao Jadhav and appellant No. (2) Gopinath @ Abhaysing S/o Shamrao Jadhav in connection with Crime No. 191/2021 registered at Ghansavangi Police Station, Dist. Jalna for the offence punishable under sections 307, 324,

323, 143 of Indian Penal Code and under sections 3(1) (r) 3(1) (s) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 be released on bail on furnishing personal bond of Rs. 20,000/- (Rupees Twenty Thousand) each with one solvent surety each of the like amount on the following conditions :-

- (a) The appellants shall not tamper with the prosecution evidence in any manner.
- (b) The appellants shall appear before the Ghansavangi Police Station, Tq. Ghansavangi, Dist. Jalna once in a week on every Sunday between 8.00 a.m. to 11.00 a.m. till filing of the charge sheet.
- (c) The appellants shall also make themselves available as and when required by the Investigating Officer in carrying out further investigation into the crime, if any.
- (d) The appellants shall not enter within the limits of village Khadka, Tal. Ghansavangi, Dist. Jalna till filing of the charge sheet.
- (e) The Criminal Appeal is accordingly disposed of.

[SHRIKANT D. KULKARNI, J.]

[V.K. JADHAV, J.]

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