

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

CRIMINAL APPEAL NO. 406 OF 2021

Ashok s/o Baliram Pawar,
Age 31 years, Occu. Business,
R/o Raje Shivaji Nagar, Barshi Road,
Latur, Taluka and District Latur

..Appellant

Vesus

1. The State of Maharashtra,
through Police Inspector,
Police Station, M.I.D.C. Latur,
District Latur
2. Manoj s/o Nagnath Kasabe,
Age 20 years, Occu. Business
R/o Mauli Nagar, Pakhar Savangi,
Taluka and District Latur

..Respondents

Mr P.D. Jarare, Advocate for appellants
Mr K.S. Patil, A.P.P. for respondent no.1 – State
Ms M.V. Narwade, Advocate for respondent no.2

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

DATE : 16th September 2021

PER COURT :

1. The appellant is original accused no.3 in connection with Crime No.492 of 2021, registered with the Police Station, M.I.D.C., Latur, for the offences punishable under Sections 307, 324, 323, 504, 506 read with Sec.34 of the Indian Penal Code and under Sections 3 (1) (r) and 3 (1) (s) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989.
2. The appellant has filed this appeal seeking anticipatory bail. His application with similar prayer bearing Criminal Bail Application No.459 of 2021 came to be rejected by the Additional Sessions Judge-2, Latur by order dated

13.8.2021. The appellant/original accused no.3 has preferred this appeal in terms of the provisions of Section 14A (2) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989.

3. The learned Counsel for the appellant/accused no.3 submits that though the name of the appellant/accused no.3 is mentioned in the F.I.R., however, no specific role has been ascribed to him. The learned Counsel submits that as per the allegations made in the complaint, the incident has taken place as of sudden, out of the dispute about the pan shops. The learned Counsel submits that there are no antecedents. The appellant is ready to abide the conditions, if imposed by this Honourable Court. The appellant be released on anticipatory bail.

4. The learned Counsel for respondent no.2/informant submits that though in the complaint, no specific role is ascribed to appellant/original accused no.3, however, the complainant/informant has given his supplementary statement before the Police, wherein he has ascribed the specific role to the appellant/accused no.3. The learned Counsel submits that the informant is still undergoing the treatment as an outdoor patient. The investigation is still going on. There is every possibility of tampering of the prosecution witnesses. The appellant may not be released on bail.

5. The learned A.P.P. submits that in the complaint, no specific role has been attributed to the appellant/accused no.3, however, the informant, in his supplementary statement and even the eye witnesses to the incident have assigned specific role to the appellant/accused no.3. Even, it is specifically alleged that the applicant and co-accused Bablu alias Vishwanath Vinayak Jadhav extended the beatings to the informant with the help of stick. The

learned A.P.P. submits that the investigation is in progress. The appellant may not be released on bail. The learned A.P.P., however, admits that there are no antecedents.

6. We have carefully gone through the police papers, particularly the complaint. It appears that the pan shops of the informant and the co-accused Sanjay Pawar are adjoining to each other and the incident has taken place on account of dispute in respect of the said pan shops. It further appears that on 3.8.2021, at about 9.30 p.m., the incident has taken place as of sudden, without any premeditation. Though the name of the appellant/accused no.3 is mentioned in the F.I.R., however, no specific role has been attributed to him. The allegations have been made against co-accused Bablu alias Vishwanath Vinayak Jadhav, however, he has been released on bail. It further appears that though the allegations have been made against the present appellant/accused no.3 and co-accused Bablu alias Vishwanath Vinayak Jadhav, for extending the beating to the informant with the help of sticks, however, the said Bablu alias Vishwanath Vinayak Jadhav came to be released on bail. It further appears that no specific role is ascribed to the appellant/accused no.3 in the complaint, however, in the supplementary statement and in the statements of the eye witnesses recorded after some time, specific role came to be attributed to the present appellant/accused no.3. The appellant is a businessman having no antecedents. In view of the same, considering the allegations made in the complaint and since there are no allegations against the appellant/accused no.3, for giving abuses to the informant by referring his caste, we are inclined to release the appellant/accused no.3 on bail. Hence, the following order :

ORDER

(I) Criminal Appeal is hereby allowed.

(II) In the event of his arrest in connection with the Crime No.492 of 2021, registered with the Police Station, M.I.D.C., Latur, for the offences punishable under Sections 307, 324, 323, 504, 506 read with Sec.34 of the Indian Penal Code and under Sections 3 (1) (r) and 3 (1) (s) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989, the appellant/accused Ashok s/o Baliram Pawar be released on bail on furnishing P.B. of Rs.15,000/- (Rs.Fifteen thousand) with one surety of the like amount, on the following conditions :-

- (a) The appellant shall not tamper the prosecution witnesses in any manner.
- (b) The appellant shall attend the concerned Police Station once in a week on every Sunday between 8.00 a.m. to 11.00 a.m. till filing of the charge-sheet.
- (c) In addition to the same, the appellant shall attend the concerned Police Station as and when called by the Investigating Officer, for further investigation, if any.

(III) Criminal Appeal no.406 of 2021 is accordingly disposed of.

(SHRIKANT D. KULKARNI, J.)

(V.K. JADHAV, J.)