

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

CRIMINAL APPEAL NO.616/2020

Ashok @ Bhaiyya S/o Haribhau Shinde

Age : 23 years, Occu : Agri,

R/o Janegaon, Tq. Kaij, Dist.Beed.

.. APPELLANT

VERSUS

1] The State of Maharashtra
Through Police Inspector,
Police Station, Yusuf Wadgaon,
Dist.Beed.

2] Vikas S/o Dashrath Ovhal,
Age 34 years, Occ : Labour
R/o Janegaon, Tq. Kaij, Dist.Beed.

.. RESPONDENTS

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Shri S.S.Thombre, Advocate for appellant

Shri P.G.Borade, A.P.P for respondent no.1.

Shri R.D.Thorat, Advocate for respondent no.2.

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**WITH
CRIMINAL APPEAL NO.575/2020**

Mahadeo @ Balu S/o Janak Shinde

Age : 35 years, Occu : Agri,

Presently Residing at Post Janegaon,

Tq. Kaij, Dist.Beed.

(Appellant is under prison/in jail

at Sub Jail of Beed,Dist.Beed

Since 4/10/2020).

.. APPELLANT

VERSUS

1] The State of Maharashtra
Through Superintendent of Police
Beed.

2] Vikas S/o Dashrath Ovhal,
Age 34 years, Occ : Labour
R/o Janegaon, Tq. Kaij, Dist.Beed.

.. RESPONDENTS

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Shri M.A.Tandale, Advocate for appellant

Shri V.S.Badakh, A.P.P. for respondent no.1.

Shri R.D.Thorat, Advocate for respondent no.2.

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CORAM : MANGESH S. PATIL, J.

DATE : 27.01.2021

ORAL JUDGMENT :-

Heard.

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

3] These are the appeals under Section 14-A of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 (for short "Atrocities Act") by two of the accused from Crime No.200/2020 registered with Yusuf Vadgaon Police Station, Tq. Kaij, Dist.Beed for the offences punishable under Section 324 read with Section 34 of the I.P.C. and Section 3(1)(r) of the Atrocities Act. By the impugned orders, the applicant in Criminal Appeal No.575/2020 has been refused regular bail whereas the applicant in the Criminal Appeal No.616/2020 has been refused anticipatory bail.

4] The allegations are to the effect that the applicant Mahadeo had intercepted informant whose wife happens to be a Sarpanch of the village and started questioning him as to why he was overlooking cutting of the trees in the school premises. He hurled abuse on the caste lines and forcibly took him on the vehicle to the school premises. It is alleged that other applicant Ashok Haribhau Shinde and one Ashok Fulchand Shinde arrived there and assaulted him by hurling abuses. He was stabbed by Ashok Fulchand Shinde.

5] By the impugned orders the learned Special Judge refused anticipatory bail to applicant Ashok and also refused regular bail to applicant Mahadeo.

6] The learned advocate for the applicant Mahadeo would submit that except an allegation of hurling a single abuse on caste line, there are no other allegations. He has already been in jail for 113 days. Going by the allegations nothing is to be recovered from him or discovered by him. There are no criminal antecedents. The trial is not likely to get over in the near future and he ought to have been granted regular bail.

7] The learned advocate for the applicant Ashok submits that the assault on the informant is attributed to the third accused Ashok Fulchand Shinde. There was no pre meditation. Ashok Fulchand Shinde seems to have taken out a knife from his two wheeler and stabbed the informant on the chest. The injuries are not attributable to him. There are no criminal antecedents. He is ready to cooperate the Investigating Officer. There is no need to have his custodial interrogation and the learned Judge ought to have granted him protection by way of anticipatory bail.

8] The learned A.P.P. and the learned advocate for the original informant oppose the appeals. They submit that the offence is serious. It is still under investigation. The third accused is still to be arrested. The weapon is to be recovered. Releasing the appellants on bail is certain to cause prejudice to the Investigating Officer and create impediment in completing it.

9] I have carefully gone through the impugned orders and considered the rival submissions. I have also undergone the papers of the investigation.

10] As can be appreciated the offence involves two incidents. In the first incident applicant Mahadeo is stated to have intercepted the informant, hurled an abuse on caste line and took him forcibly to the school premises. He has been in jail for considerably long time. Trial is not likely to get over in near future. There are no criminal antecedents.

11] The second episode seems to have ensued, wherein applicant Ashok Haribhau Shinde and Ashok Fulchand Shinde abused the informant. Ashok Fulchand Shinde stabbed him with a knife. Conspicuously there are no allegations about applicant Ashok having hurled abuse on caste lines during the second episode. The injuries sustained by the informant are also attributable to Ashok Fulchand Shinde and not to the present applicant Ashok Haribhau Shinde. Even the injuries are stated to be simple in nature.

12] Considering the aforementioned state of affairs, the learned Judge ought to have easily granted regular bail to applicant Mahadeo and anticipatory bail to applicant Ashok Haribhau Shinde considering the roles

attributable to them.

13] The Appeals are allowed. The impugned orders are quashed and set aside. Ad-interim reliefs granted in both the proceedings stand confirmed with the same terms and conditions. Regular bail to be furnished by the applicant Mahadeo before the trial Court.

[MANGESH S. PATIL, J.]

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