

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

CRIMINAL APPEAL NO.680 OF 2020

**ASHOK PHULCHAND SHINDE
VERSUS
THE STATE OF MAHARASHTRA AND ANR**

...
Advocate for Appellant : Mr. P.A. Bhosle h/f. Mr. Amol B. Chalak
APP for Respondent/State: Mr. P.G. Borade
Advocate for Respondent No.2 : Mr. R.D. Thorat
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CORAM : MANGESH S. PATIL, J.

DATE : 26.02.2021

PER COURT :

Heard.

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

3. The learned advocate for the respondent No.2 tenders across the bar an affidavit-in-reply. It is taken on record.

4. The appellant is before this Court being aggrieved and dissatisfied by the rejection of his Application for anticipatory bail preferred under Section 438 of the Code of Criminal Procedure in connection with Crime No.200/2020 registered with Yusuf Wadgaon Police Station, Tq. Kaij, Dist. Beed for the offences punishable under Section 324 read with Section 34 of the Indian Penal Code and Section 3 (1) (r) of the Scheduled Caste and Scheduled Tribes (Prevention of Atrocities) Act, 1989.

5. After having heard both the sides, it transpires that the incident had taken at two places. It is alleged that in the first episode accused Mahadeo had intercepted informant, hurled abuses at him on caste line and forcibly taken him to the school premises where the second episode ensued.

6. It is being alleged that in this second episode the applicant and another accused Ashok Haribhau Shinde started hurling abuses at the informant and the applicant is stated to have stabbed him on the torso due to which he sustained three injuries on the left side of the chest.

7. Perusal of the papers of the investigation would reveal that the injuries sustained by the informant have been stated to be simple injuries though caused by sharp weapon.

8. It is being submitted by the learned advocate for the respondent No.2 that even the charge sheet has been filed.

9. Simultaneously, it is also necessary to bear in mind that co-accused Ashok Haribhau Shinde has been granted anticipatory bail by this Court whereas accused Mahadeo Janak Shinde has been granted regular bail by the judgment and order dated 27.01.2021.

10. Considering the aforementioned facts and circumstances, it is quite apparent that as far as the first episode which involves commission of the offence punishable under Section 3 (1)(r) of the Atrocities Act is concerned, the applicant had not played any role and the entire allegations are attributed to co-accused Mahadeo.

11. As far as the second episode is concerned the injuries being

simple and applicant is being charged for the offence punishable under Section 324 of the Indian Penal Code, this is a fit case where he ought to have been granted anticipatory bail by the learned Special Judge.

12. The Appeal is allowed.

13. The impugned order is quashed and set aside. In the event of arrest of the applicant in connection with 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 Indian Penal Code and Section 3 (1)(r) of the Scheduled Caste and Scheduled Tribes (Prevention of Atrocities) Act, 1989, he 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 the following conditions :

- a) He shall not tamper with the evidence of the prosecution in any manner.
- b) He shall co-operate with the investigation.

(MANGESH S. PATIL, J.)