

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

CRIMINAL APPEAL NO. 622 OF 2021

01 Sanjay s/o Narayan Jadhav,
age: 39 years, Occ: Agri/Labour.

02 Sushil s/o Sukhlal Gaikwad,
age: 22 years, Occ: Agri/Labour.

Both R/o Nutan Vasahat, Juna
Jalna, Jalna, Tq. & Dist. Jalna.

Appellants

Versus

01 The State of Maharashtra,
through Police Station Kadim,
Jalna, Tq. & Dist. Jalna.

02 Ashok s/o Keshavrao Patole,
age: 48 years, Occ: Labour,
R/o Nutan Vasahat, Juna Jalna,
Jalna, Tq. & Dist. Jalna.

Respondents

Mr. B. N. Gadegaonkar, advocate for the appellants
Mr. K. S. Patil, APP for Respondent No.1-State.
Mr. Sumjedh T. Bhingardeo, advocate for Respondent No.2.

**CORAM : V. K. JADHAV AND
SANDIPKUMAR C. MORE, JJ.**

DATE : 17th December, 2021.

PC :

1 Both the appellants are seeking regular bail in connection with Crime No.0421/2021, registered with Police Station Kadim, Jalna, for the offences punishable under Sections

307, 323, 324, 504, 506 read with Section 34 of the Indian Penal Code, under Section 4/25 of the Indian Arms Act and under Section 3 (ii) (v) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act. Their application with similar prayer came to be rejected by the Additional Sessions Judge-5, Jalna, vide order dated 24.11.2021, passed below Exhibit-6 in Special Case No. 271 of 2021.

2 In terms of the provisions of Section 14-A of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act read with Section 439 of the Code of Criminal Procedure, these appellants have preferred this appeal against the rejection of their application seeking bail, vide order dated 24.11.2021, passed below Exhibit-6 in Special Case No. 271 of 2021, by the Additional Sessions Judge-5, Jalna.

3 Learned Counsel for the appellants submits that there is an inordinate delay of seven days in filing the complaint for which no explanation has been given in the First Information Report. The learned Counsel submits that though names of the appellants are mentioned in the First Information Report, however, main role is ascribed to co-accused Chandrakant Jadhav and Sonu

Jadhav, who are still behind the bars. The learned Counsel submits that so far as appellant no.1 Sanjay Jadhav is concerned, it has been alleged in the complaint that he has extended beating to the informant with fists and kick blows. The learned Counsel submits that so far as appellant no.2 – Sushil Gaikwad is concerned, it has been alleged in the complaint that he has used weapon *gupti* in the assault and caused injuries on the hand of the informant. The learned Counsel submits that the injury on the hand of the informant is stated to have been caused by hard and blunt object and not be a sharp weapon like *gupti*. The learned Counsel submits that the appellants are ready to abide by the conditions, if imposed by this Court. The appellants have their roots in the society. They are not likely to be absconded. They are available for trial.

4 The learned Counsel appearing for Respondent No.2 submits that the appellants, along with co-accused persons, in furtherance of their common intention, assaulted the informant and his family members and used deadly weapons in the said assault. Co-accused Chandrakant Jadhav and Sonu Jadhav have used sword in the assault and caused injuries on the person of the informant. The learned Counsel submits that there are

antecedents of both the appellants. There is a strong possibility of tampering with prosecution evidence if the appellants are released on bail. The appellants may not be released on bail.

5 The learned A. P. P. submits that there is a strong *prima facie* case against both the appellants. In furtherance of their common intention, both the appellants and co-accused persons assaulted the informant and his family members. In the said assault, deadly weapons like sword and *gupti* were used. The informant has sustained grievous injury. There are antecedents. The learned A. P. P. submits that in all there are 9 cases registered against all the accused persons, including the appellants. The appellants may not be released on bail. In the alternative, the learned A. P. P. submits that stringent conditions may be imposed upon the appellants such as, not to enter within Jalna City till disposal of the trial, except for attending Court dates.

6 We have carefully gone through the contents of the complaint and also perused the charge sheet. Though it has been alleged in the complaint that the appellants and the co-accused persons went to the house of the informant armed with weapons and assaulted him by using the deadly weapons, however, so far as

appellants before us are concerned, the allegations as against them are limited to certain extent and the allegations about the assault by deadly weapons have been made mainly against co-accused Chandrakant Jadhav and Sonu Jadhav who are not before us as appellants.

7 So far as appellant Sanjay Jadhav is concerned, it has been alleged in the complaint that he has extended beating to the informant with fists and kick blows. It has been alleged that appellant Sushil Gaikwad has used the weapon *gupti* and caused injury on the hand of the informant. On perusal of the medico legal certificate of the informant, it appears that the informant has sustained contusion on the left side arm and forearm with fracture of radius, however, the probable weapon used is hard and blunt weapon. There is no reference, in the medico legal certificate, that the informant has sustained injury on his left hand, left side arm or forearm, caused by a sharp weapon. So far as injuries on the person of informant, caused by sharp weapons are concerned, the present appellants are not the authors of the said injuries, as alleged in the complaint.

8 Though there are four cases registered against

appellant no.1 – Sanjay Jadhav at Kadam Police Station, Jalna, however, considering the allegations made against him to the extent that he has beaten the informant with fists and kick blows, we are inclined to release him on bail with certain stringent conditions. So far as appellant no. 2 – Sushil Gaikwad is concerned, this is a single crime registered against him. Thus, considering the entire aspects of the case, we are inclined to release both the appellants on bail with certain conditions.

9 Thus, considering the allegations made in the complaint and the way in which the informant and his family members were assaulted by using deadly weapons, according to us, there is a strong possibility of tampering with the prosecution evidence. In view of the same, it would be just and appropriate if entry of both the appellants is restricted in Jalna city till disposal of Special Case No. 271 of 2021 except for attending Court dates, with some other conditions.

10 Hence, the following order:

(i) Criminal Appeal is hereby allowed.

(ii) Appellant No.1 – Sanjay s/o Narayan Jadhav and appellant no. 2 – Sushil s/o Sukhlal Gaikwad be released on bail on furnishing P. R. bond of Rs.50,000/- (Rs. Fifty thousand) each with one or two solvent sureties each of the like amount on the following conditions:

(a) Both the appellants shall not tamper with the prosecution evidence, in any manner.

(b) Both the appellants shall not enter within the limits of Jalna City till the disposal of Special Case No. 271 of 2021, except for attending Court dates.

(c) Both the appellants shall attend the Police Station where they reside while on bail, except the Police Station at Jalna city, once on 1st date of every month till disposal of the trial.

11 Criminal Appeal is accordingly disposed of.

(SANDIPKUMAR C. MORE)
JUDGE

(V. K. JADHAV)
JUDGE