

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**CRIMINAL APPELLATE JURISDICTION****CRIMINAL APPEAL NO. 315 OF 2021**

Sanjeev Nagnath Upade

... Appellant

V/s.

The State of Maharashtra & Anr.

... Respondents

Mr. Ritesh Thobde for Appellant.

Mr. Sooraj S. Hulke, A.P.P. for Respondent-State.

CORAM : A.S. GADKARI, J.**DATE : 26th April 2021.****(Through Video Conferencing)****PC. :**

1. This is an Appeal under Section 14A of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 (Amendment Act 2015) (for short, "SCST Act") in C.R. No. 127 of 2020 dated 16th February 2021 registered with Foujdar Chawadi Police Station, Solapur, under Sections 143, 144, 144, 147, 323, 324, 504, 506 of the Indian Penal Code and Sections 3, 3(1)(r), 3(1)(s) of SCST Act.

2. In pursuance of Order dated 21st April 2021, learned A.P.P. has filed an Affidavit of Mr. Suhas S. Bhosale, Assistant Commissioner of Police and Investigating Officer of the present crime dated 23rd April 2021 through e-filing. The same is taken on record. The Affidavit mentions that, the

Respondent No.2 Complainant/First Informant has been duly intimated about filing of the present Appeal and its scheduled date. Learned A.P.P., on instructions from the concerned Officer further submitted that, the Respondent No.2 is not desirous to appear in the present Appeal and he has informed that the present Appeal may be decided in his absence.

3. Perusal of record indicates that, the Respondent No.2 has lodged the present crime on 16th February 2021 at about 2.00 a.m. for a alleged incident which took place on 15th February 2021 at about 7.00 p.m. It is alleged that, on the eve of Shri Chatrapati Shivaji Maharaj Jayanti, the informant had placed a bust/half statute of Shri Chatrapati Shivaji Maharaj in a shed in front of his house. That, due to inadvertence, the said statute felled down and broken. The said fact was informed to the Appellant by somebody. It is alleged that, the Appellant along with his other associates came at the scene of offence and assaulted the informant with fist and kick blows. In the brief premise, the present crime is registered by Respondent No.2.

4. A bare perusal of First Information Report would indicate that, the Appellant did not insult, intimidate or abused the Respondent No.2 on his caste. Alleged assault by the Appellant is due to the said act of breaking of statue of Chatrapati Shivaji Maharaj, allegedly done by the Respondent No.2. Mr. Thobade, learned counsel for the Appellant submitted that, it is only because the Respondent No.2 belongs scheduled caste and due to the

operation of legal fiction the provisions of Section 3(1)(r) & (s) are applied to the present crime.

5. Be that as it may, the Appellant has been arrested on 16th February 2021. The investigation of the present crime is practically completed. No purpose will be served by further detaining the Appellant for custody. Even otherwise, the offences alleged against the Appellant as contemplated under the provisions of Indian Penal Code are bailable offences.

6. In view thereof, the Appellant can be released on bail.

Hence, the following Order :-

- (i) Appellant be released on bail in C.R. No.127 of 2018 on his furnishing PR. bond of Rs.20,000/-, with one or two local sureties in the like amount.
- (ii) Appellant is permitted to furnish cash bail of Rs.20,000/- for a period of 16 weeks from today and during the said period, the Appellant will have to comply the procedure of furnishing local sureties.
- (iii) After his release from Jail and during the pendency of trial, the Appellant shall attend Foujdar Chawadi Police Station, Solapur on every first Monday of the month between 10.00 a.m. and 12.00 noon, initially for a period of one year

After the end of one year, the Appellant shall attend the Foujdar Chawadi Police Station, Solapur, on every first Monday of the every 3rd Month between 10.00 a.m. and 12.00 noon. The Appellant thus, shall attend Foujdar Chawadi

Police Station, Solapur, 4 times in a year, during the pendency of trial.

(iv) If the Applicant commits two consecutive defaults in complying with condition condition No.(iii) above, in that event, the prosecution will be at liberty to file an Application for cancellation of bail.

(v) Appellant shall not tamper with the evidence and/or pressurize the prosecution witnesses.

7. Appeal is allowed in the aforesaid terms.

8. All the concerned to act on the basis of the authenticated copy of this Order.

[A.S. GADKARI, J.]