

***IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION***

CRIMINAL APPEAL NO. 161 OF 2021

1.	Khandu Motiram Mohan	
2.	Devram Lakshman Mohan	
3.	Yogesh Tanaji Mohan	...Appellants
	Versus	
	State of Maharashtra and Anr.	...Respondents

Mr. Satyam H. Nimbalkar, for the Appellants.

Mr. A. R. Patil, A.P.P for the Respondent No.1– State.

CORAM : REVATI MOHITE DERE, J.

DATE : 15th JULY, 2021

(THROUGH VIDEO CONFERENCING)

P.C. :

1. Heard learned counsel for the parties.
2. Pursuant to the notice issued by this Court to respondent No.2 i.e. First Informant, the First Informant has been served. Learned Counsel for the appellants has also filed an affidavit to that effect. Learned APP, on instructions, also states that they have informed the respondent No.2. Despite service, none appears on behalf of the respondent No.2.

3. By this appeal, the appellants seeks their enlargement on bail in connection with C.R.No.229 of 2020 registered with the Khed Police Station, Pune Rural, for the alleged offences punishable under Sections 326, 323, 504, 143, 147, 148 and 149 of the Indian Penal Code and under sections 3(2), (5-A), 3(1),(r),(s) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act.

4. Learned Counsel for the appellants submits that according to the First Informant, appellant No.1 - Khandu Motiram Mohan is alleged to have assaulted him on his back with the rear side of the sickle; appellant No.2 – Devram Lakshman Mohan is alleged to have assaulted him on his ear with a knife and appellant No.3 - Yogesh Tanaji Mohan is alleged to have assaulted him with a wooden stick on his hand. He submits that a perusal of the injury certificate of the First Informant does not show that the said injuries are grievous in nature. He submits that as far as allegations of assault and abuse are concerned, there is an omnibus statement that all the accused assaulted and abused the First Informant in the name of his caste. He submits that the appellants are languishing in jail for more than one year and that the other co-accused in the said case have been enlarged on bail by this Court vide order dated 14th July 2020.

5. Learned APP does not dispute the fact, that there are no medical papers to show that the injury sustained by the First Informant was a grievous injury; and that the allegations of caste abuse are as against all the accused.

6. Perused the papers, in particular the complaint/FIR. According to the First Informant, appellant No.1 - Khandu Motiram Mohan assaulted him on his back with the rear side of sickle; appellant No.2 – Devram Lakshman Mohan assaulted him with a knife on his ear and appellant No.3 - Yogesh Tanaji Mohan assaulted him with a wooden stick on his hand. A perusal of the injury certificate of the First Informant – Vilas Rokde shows that he has only sustained one laceration near his ear. The column of ‘nature of injury’ is blank. There are no corresponding injuries on the back or on the hand. The only injury as reflected in the injury certificate is near the ear, which injury *prima-facie* appears to be simple. As far as the other injured are concerned, admittedly their medical certificates show that the said injuries sustained by them are simple in nature. As far as the allegation of caste abuse is concerned, it is a general allegation made against all the accused. The appellants are in custody for more than one year. The appellants have no antecedents. Investigation is complete and charge-sheet is filed.

7. Considering the aforesaid, the Appeal is allowed and the appellants are enlarged on bail, on the following terms and conditions:-

ORDER

- i) The Appellants be enlarged on bail on furnishing P.R. Bond in the sum of Rs.15,000/- each with one or two sureties in the like amount;
- ii) The Appellants shall attend the concerned Police Station on the first Saturday of every month between 10.00 a.m. to 11.00 a.m., till the conclusion of the trial;
- iii) The Appellants shall inform their latest place of residence and mobile contact number immediately after being released and/or change of residence or mobile details, if any, from time to time to the trial Court as well as to the concerned Police Station, in writing;
- iv) The Appellants shall not tamper with the evidence or attempt to influence or contact the complainant, witnesses or any person concerned with the case;
- v) The Appellants shall co-operate in the conduct of the trial and shall attend the trial Court on every date of hearing, unless exempted by the trial

Court.

8. The Appeal is allowed and disposed of in above terms.

9. It is made clear, that the observations made herein are *prima facie*, and the trial Court shall decide the case on its own merits, in accordance with law, uninfluenced by the observations made in this order.

10. All concerned to act on the authenticated copy of this order.

REVATI MOHITE DERE, J.