

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL (ST.) NO. 3076 OF 2020

Hanumant Shivaji Jagtap & Ors.

... Appellants

V/s.

The State of Maharashtra & Anr.

... Respondents

Mr.Tushar Sonawane for Appellants.

Ms.Rutuja Ambekar, A.P.P. for Respondent No.1-State.

Mr.Ghanshyam Jadhav for Respondent No.2.

CORAM : A.S. GADKARI, J.

DATE : 3rd February 2021.

PC. :

By the present appeal under Section 14-A of The Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) *Act*, 1989 (for short, 'S.C. & S.T. Act'), the appellants/original accused Nos.3 to 5 (as per F.I.R.) are seeking pre-arrest bail under Section 438 of the Cr.PC. in C.R. No.0359 of 2020 dated 12th September 2020 registered with Bhigwan Police Station, Taluka Indapur, District Pune, for the offence punishable under Sections 323, 504, 506 read with 34 of the Indian Penal Code and under Section 3(1)(r) and 3(1)(s) of the S.C. & S.T. Act.

2. Heard Mr.Sonawane, learned counsel for the appellants, Ms.Ambekar, learned APP for respondent No.1-State and Mr.Jadhav, learned

counsel for the respondent No.2. Perused the record of investigation.

3. The First Information Report is lodged by respondent No.2. It is alleged that, on 11th September 2020, at about 5.30 pm, the respondent No.2 along with Dadasaheb Galande and Pappu Gaikwad were proceeding to the agricultural files of Dadasaheb Galande. They noticed that, a quarrel was going on between Pradeep Jagtap (Accused No.1) and Mahadeo Koli. When Dadasaheb Galande tried to pacify the said quarrel, it is alleged that, at that time all the accused persons assaulted him. When the respondent No.2 tried to resolve and/or pacify the said fight, it is further alleged that Amol Jadhav (Accused No.2) hurled abuses in filthy language on the caste of the informant and also assaulted him with fists and kick blows. In the brief premise, the present crime is registered.

4. A bare perusal of the First Information Report indicates that, the appellants shared common intention with Amol Jadhav and actively participated in commission of the said crime. Section 8(b) of S.C. & S.T. Act states about presumption of commission of offence in furtherance of common intention or in prosecution of common object by a group of persons in committing an act.

5. The record is silent about any positive act committed by the appellants in preventing the said Amol Jadhav (Accused No.2) in hurling abuses on the caste of the informant in filthy language. This further enforces

that fact that, the appellants shared common intention with Amol Jadhav in committing present crime.

After taking into consideration the allegations against the appellants and the presumption under Section 8(b) of S.C. & S.T. Act, a strong *prima-facie* case against the appellants is made out and therefore, the appellants do not deserve to be protected by pre-arrest bail.

6. Perusal of record would indicate that, the Trial Court has not committed any error while passing the impugned Order dated 30th September 2020 passed below Exhibit-01 in Bail Application No.929 of 2020.

Appeal being *dehors* of merits is accordingly dismissed.

[A.S. GADKARI, J.]

Omkar S.
Kumbhakarn

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