

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
NAGPUR BENCH, NAGPUR.**

CRIMINAL APPEAL NO. 368/2020

Akshay S/o Subhash Tale,
aged about 30 yrs, Occ. Agri.
Job, R/o Channi, Tq. Patur,
Dist. Akola.

.... APPELLANT

// VERSUS //

1. State of Maharashtra,
through Police Station Officer,
Police Station Channi, Tq. - Patur,
Dist. Akola.
2. Nitin S/o Wamanrao Sardar,
Aged about 35 years, Occ. Lawyer,
R/o. Channi, Tq. - Patur,
Dist. Akola.

.... RESPONDENTS

Shri S. B. Gandhe, Advocate for appellant.
Ms. T. Udeshi, APP for respondent No. 1.

CORAM : VINAY JOSHI, J.

DATED : 30.09.2021

JUDGMENT

Heard.

2. **Admit.** By consent of the learned counsel present for

the parties, appeal is taken up for final disposal.

3. In anticipation of arrest in Crime No. 349/2020 registered with the Channi Police Station, Taluka Patur, District Akola for the offence punishable under Sections 323, 324, 504 of the Indian Penal Code and Section 3(1)(r), 3(1)(s) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act (SC and ST Act) is praying for pre-arrest protection.

4. It is the case of prosecution that on the date of occurrence while informant along with one other were sitting on the river bridge, the applicant and co-accused arrived, abused informant in the name of caste and beat by means of fist blows and iron rod. Learned counsel for the applicant would submit that out of misconception, the existing First Information Report (FIR) has been lodged as no such incident took place. In support of said contention, he attracted my attention to the reply affidavit filed by the informant in the Trial Court giving his no objection for grant of bail. Perusal of said reply indicates that there was a friendly talk in between them, however in hit of anger, the informant has lodged report. The said contentions supports appellant's submission that no such incident took place. Therefore, it can be safely said that prima-facie case is not made out to constitute the offence

punishable under the provisions of SC and ST Act. This Court has granted interim protection to the applicant prior to one year vide order dated 24.09.2020. There is no complaint about misused of liberty. Moreover, despite service of notice, informant is absent. Having regard to the nature of accusation, the applicant's liberty can be protected. Hence, following order:-

(I) Appeal stands allowed and disposed of along with all miscellaneous applications.

(II) Order dated 09.09.2020 passed by the learned Sessions Judge is hereby quashed and set aside.

(III) Ad-interim order dated 24.09.2020 is made absolute on the same terms and conditions.

JUDGE

Gohane.