

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

69 CRIMINAL APPEAL NO.187 OF 2022

**ASHOK BHANUDAS KHOMANE AND OTHERS
VERSUS
THE STATE OF MAHARASHTRA AND ANOTHER**

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Advocate for Appellants: Mr. Patil Jiwan J
APP for Respondent No.1: Mr. P. V. Diggikar
Advocate for Respondent No.2:
Mr. Tushar Shinde h/f. Mr. C. K. Shinde

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**CORAM: V. M. DESHPANDE &
SANDIPKUMAR C. MORE, JJ.**

DATE: 18th APRIL, 2022

PER COURT:

1. Heard Mr. Jiwan J. Patil, learned Counsel for the appellants, Mr. Tushar Shinde, learned Counsel holding for Mr. C. K. Shinde, learned Counsel for respondent no.2 / original complainant and Mrs. P. V. Diggikar, learned A.P.P. for the State.

2. **Admit.** Taken up for final hearing by consent of parties.

3. The present appeal U/Sec.14-A of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 is filed by the

appellants since, their application for pre-arrest bail i.e. Criminal (Bail) Miscellaneous Application No.77/2022 was rejected by the learned Additional Sessions Judge, Shrigonda on 25.02.2022.

4. Respondent No.2 is the original complainant. She has lodged a report against the present appellants and one Hanmant on 05.02.2022 in respect of the incident happened on 27.01.2022. From the First Information Report it is clear that the present appellants and respondent no.2 are having the agricultural field adjacent to each other and a case of encroachment is also going on. As per the First Information Report on 27.01.2022 at 08:00 O'clk in the night when the appellants with one Hanmant came and they abused the complainant in the name of caste and also she was assaulted. From the First Information Report it is clear that the main allegation of assault resulting in the loss of eye was against Hanmant whose appeal is dismissed by this Court today. In so far as the present appellants are concerned

there are allegations made against them in respect of assault by fist and blows and by wooden stick, no injury corresponding to such assault is pointed out to the Court by the learned A.P.P.

5. In so far as the accusations of the abuse, it is clear that the appellants had not abused the complainant on his caste and have not assaulted the complainant in the public place the place mentioned in the F.I.R. is the farm land thus there is no public view. In that view of the matter we pass the following order.

6. The appeal is allowed. The order passed by the learned Additional Sessions Judge, Shrigonda dated 25.02.2022 in Criminal (Bail) Miscellaneous Application No.77/2022 is hereby quashed and set aside.

7. In the event of arrest of the appellants namely Ashok Bhanudas Khomane, Shivaji Ashok Khomane and Rekha Ashok Khomane in connection with Crime No.42/2022 registered with police station

Belwandi U/Sec.326, 324, 323, 504, 506 read with Section 34 of I.P.C. and U/Sec.3(1)(r) and 3(1)(s) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 they be released on bail on executing P.R. Bond of Rs.5,000/- each with one surety of the like amount. The appellant nos.1 and 2 only are directed to attend the police station on 25.04.2022, 27.04.2022 and 29.04.2022 before the investigating officer between 11:00 AM to 05:00 PM. Thereafter, they shall attend the police station as and when called for by the investigating officer and extend full co-operation to the investigating officer.

8. Criminal Appeal is accordingly disposed of.

[SANDIPKUMAR C. MORE, J.]

[V. M. DESHPANDE, J.]

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