

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

CRIMINAL APPEAL NO. 207 OF 2020

1. Amit Datta Telang
Age: 22 years, Occu.: Education,
R/o Behind Lohiya Mangal Karyalaya,
Tuljapur, Tq. Tuljapur, Dist. Osmanabad

2. Meghraj Yuvraj Telang
Age: 26 years, Occu.: Business & Priest,
R/o Tuljapur, Tq. Tuljapur,
Dist. Osmanabad

..APPELLANTS

VERSUS

1. State of Maharashtra
Through Police Station,
Tuljapur, Dist. Osmanabad

2. Vandana Deepak Kadam
Age: 45 years, Occu.: Household,
R/o Gopalnagar, Tuljapur,
Tq. Tuljapur, Dist. Osmanabad

..RESPONDENTS

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Mr. V.V. Ingale, Advocate for appellants
Mr. R.B. Bagul, A.P.P. for respondent no.1 – State
Mr. Shaikh Ashraf Patel, Advocate for respondent no.2

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**CORAM : R.G. AVACHAT, J.
DATE : 26th APRIL, 2022**

PER COURT :

1. This is an appeal under Section 14-A of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 ('the Act'). The challenge in this appeal is to an order dated 12th February, 2020 in Criminal

Bail Application No. 34 of 2020 passed by the learned Special Judge, Osmanabad refusing to grant the appellants anticipatory bail in connection with Crime No. 16 of 2020 registered with Tuljapur Police Station, Dist. Osmanabad for the offences punishable under Sections 323, 324, 506, 143, 147, 149 of the Indian Penal Code ('I.P.C.') and under Sections 3(1)(r)(s), 3(2)(v)(a) of the Act.

2. Heard. Perused the First Information Report ('F.I.R.') and related papers.

3. The F.I.R. has been lodged on 13th January, 2020 in relation to the incident that took place on 8th and 9th of the same month. It has been averred in the F.I.R. that the informant's two sons viz. Shubham and Saurabh were watching television program at home. It was about 08.30 p.m. of 08th January, 2022. The appellant alongwith 4-5 others came home of the informant. They called her sons out of the home. The informant, therefore, went out to see what the matter was. The appellants pushed her and beat up her sons Shubham and Saurabh. She worked out the truce. The appellants and their companions then left. Again by 08.00 p.m. on the next day, the informant heard some quarrel outside of her residence. She, therefore, came out to see the appellants alongwith four-five boys assaulting her sons Shubham and Saurabh. Amit assaulted Shubham with iron rod, while

Meghraj with fists and kicks. When the informant intervened, the appellants abused her over her caste.

4. Learned A.P.P. and learned counsel representing Respondent No.2 – informant would submit that the incident took place in public view. The sons of the informant were assaulted brutally. There are eye witnesses to the incident. They would submit that the allegations in F.I.R. undoubtedly make out the offence/s punishable under the Act, and therefore, there is bar under Section 18 of the Act to grant pre-arrest bail. They, therefore, urged for dismissal of the appeal.

5. Learned counsel for the appellants would, on the other hand, submit that the F.I.R. has been lodged four-five days after the alleged incident. The allegations therein are afterthought. The F.I.R. has been lodged as counterblast to the F.I.R. lodged by one of the appellants against the informant's sons for the offence punishable under Section 307 of the I.P.C. Attention of this Court was adverted to the F.I.R. lodged by Appellant No.1 – Amit. It was recorded in Sahyadri Hospital as he was an indoor patient there. He, therefore, urged for allowing the appeal.

6. Considered the submissions advanced. Perused the F.I.R. and the papers relied on. The appeal is of 2020. Over two years and three months

have passed since grant of interim protection to the appellants herein. The F.I.R. has been lodged four-five days after the alleged incident. The appellants have, therefore, every reason to contend it to have been lodged afterthought. There also appears to be counter cases between the two. Appellant No.1 – Amit has lodged the F.I.R. against the sons of the informant and six-seven other persons. True, the said F.I.R. was also lodged three-four days after the alleged incident. It has been recorded in hospital as he was an indoor patient there. In the case in hand, the offences registered under the I.P.C. have all been bailable one. In view of there being delay of little over four-five days in lodging the F.I.R., possibility of invoking provisions of the Act only with a view to see the appellants being arrested, cannot be ruled out. More so, in view of there being a crime registered against the sons of the informant before the crime in question was registered. The appellants have been protected with an interim anticipatory bail for little over two years. In the fitness of things, the appeal deserves to be allowed.

7. In view of the same, the appeal succeeds. Hence the following order :-

ORDER

- (i) Criminal appeal is allowed.
- (ii) Interim relief granted to the appellants vide order dated 28th February, 2020 is hereby confirmed.

(iii) The appellants shall not tamper with the prosecution evidence.

(iv) The appellants shall appear before the investigating officer as and when required.

(R.G. AVACHAT, J.)

SSD