

IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
BENCH AT AURANGABAD.

925 CRIMINAL APPEAL NO. 228 OF 2022

- 1] Dnyaneshwar S/o. Suryabhan Shelke.
2] Afzal Hasan Shaikh. ... Appellants

Versus

- 1] The State of Maharashtra.
2] Uttam S/o Ambadas Barse. ... Respondents

...

Mr. Vishal A. Bagal, Advocate for Appellants.
Mr. R. D. Sanap, APP for Respondent/State.
Mr. Aminullah Ahmed Khan, Advocate for Respondent No.2.

...

CORAM : **SHRIKANT D. KULKARNI, J.**

DATE : 21st September, 2022.

PER COURT.:

. The appellants are challenging the order of rejection of anticipatory bail passed by the learned Additional Sessions Judge-1, Vaijapur dated 9th March, 2022 in Criminal Bail Application No.80 of 2022 by way of this appeal.

2 Heard Mr. V. A. Bagal, learned counsel for the appellants, Mr. Sanap, learned APP for respondent/State and Mr. Khan, learned counsel for respondent No.2/first informant. Perused the impugned

order of rejection of anticipatory bail passed by the learned Additional Sessions Judge in Criminal Bail Application No.80 of 2022 and the copy of FIR.

3 On going through the copy of FIR, it would reveal that Crime No.52 of 2022 came to be registered at Gangapur Police Station, District Aurangabad against the present appellants and others, for the offences punishable under Sections 143, 147, 149, 353, 323, 504 and 506 of the Indian Penal Code and Sections 3(1)(r) of the Scheduled Caste and Scheduled Tribes (Prevention of Atrocities) Act, 1989. In apprehension of arrest in above said crime, the appellants have rushed to the learned Additional Sessions Judge, Vaijapur and prayed for anticipatory bail. Their application came to be turned down by the learned Additional Sessions Judge, Vaijapur. In the above background, the appellants are before this Court by way of this appeal.

4 On perusing the copy of FIR, it would reveal that at the relevant point of time, the first informant, who belongs to scheduled caste, was working as Gramsevak on the establishment of Gram Panchayat, Shingi, Taluka Gangapur. The alleged incident had taken place on 19th February, 2022 about 10:00 am in the morning. The role attributed against the appellants, even if taken at its face value, it would reveal that they alongwith others alleged to have beaten to the

the first informant by fist blows and kicks, which may attract Section 323 read with 353 of the Indian Penal Code. Both the appellants seem to have not abused to the first informant with reference to his caste as appearing from the FIR. As such, *prima-facie*, offences under the Atrocities Act do not attract against both the appellants. It is revealed during the course of argument that the investigation of Crime No.52 of 2022 has been completed and the investigation officer has also filed the charge-sheet. Under these circumstances, it would be just and proper to allow this appeal and release the appellants on anticipatory bail, however, on certain conditions. Hence, the following order is passed:

ORDER

- I. The criminal appeal is hereby allowed.
- II. The impugned order passed by the learned Additional Sessions Judge-1, Vaijapur in Criminal Bail Application No.80 of 2022 dated 9th March, 2022, is hereby quashed and set aside.
- III. In the event of arrest of appellants (Dnyaneshwar S/o. Suryabhan Shelke and Afzal Hasan Shaikh) in connection with Crime No.52 of 2022, registered on 19th February, 2022 at Gangapur Police Station, District Aurangabad, for the offences punishable under Sections 143, 147, 149, 353, 323, 504 and 506 of the Indian Penal Code and Sections 3(1)(r) of the

Scheduled Caste and Scheduled Tribes (Prevention of Atrocities) Act, 1989, they shall be released on bail on their furnishing P.R. bond of Rs.20,000/- (Rupees Twenty Thousand Only) each with one or two solvent sureties of the like amount by each of them on following conditions:

- a) The appellants shall furnish their in detail address and cell number before the concerned Court and the police station.
- b) The appellants shall not tamper with prosecution witnesses and evidence in any manner.

IV. Inform to the concerned police station and Court accordingly.

V. The criminal appeal is accordingly disposed of.

[SHRIKANT D. KULKARNI, J.]