

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

925 CRIMINAL APPEAL NO. 229 OF 2022

Musa Hasan Shaikh.

... Appellant

Versus

1] The State of Maharashtra.

2] Uttam S/o Ambadas Barse.

... Respondents

...

Mr. Vishal A. Bagal, Advocate for Appellant.

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 appellant is challenging the order of rejection of anticipatory bail passed by the learned Additional Sessions Judge-1, Vaijapur dated 14th March, 2022 in Criminal Bail Application No.99 of 2022 by way of this appeal.

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

3 Perused the copy of FIR, copy of impugned order of rejection of anticipatory bail passed by the learned Additional Sessions Judge, Vaijapur and other papers.

4 According to Mr. Bagal, learned counsel for the appellant, the appellant has been falsely implicated due to political rivalry between two groups in the village. The appellant is from the group of Deputy Sarpanch and the opposite group is of Sarpanch, who is backing to the Gramsevak/first informant. He submitted that such incident never happened. In fact, the appellant and other villagers had filed complaint against the Gramsevak raising various issues and by taking grudge in the mind, he has filed false FIR against the appellant and others.

5 Per contra, Mr. Sanap, learned APP for the respondent / State and Mr. Khan, learned counsel for respondent No.2 / first informant submitted that the appellant alongwith other villagers had beaten to the first informant by fist blows and kicks. They had threatened to the first informant with dire consequences as well as threat to life. The colleagues of the appellant have given abuses to the first informant with reference to his caste as appearing from the FIR. Therefore, the appellant is not entitled to get any protection in view of the bar provided under the Atrocities Act.

6 Having regard to the submissions of the learned counsel for both the sides and the learned APP for the State, I have gone through the copy of FIR referred above. On going through the copy of FIR, one would find that the role attributed against the appellant is very much limited. The appellant alleged to have given kick in the stomach of the first informant and other persons present there had beaten by fist blows and kicks. As per the FIR, the appellant has not used abusive language against the first informant with reference to his caste. As such, *prima-facie* the provisions of the Atrocities Act do not attract having regard to the allegations levelled against the appellant. It is also informed that the investigation has been completed and the investigation officer has filed the charge-sheet. The appellant is entitled to get anticipatory bail. However, on certain conditions. Hence, the following order is passed:

ORDER

- I. The criminal appeal stands allowed.
- II. The impugned order of rejection of bail passed by the learned Additional Sessions Judge-1, Vaijapur in Criminal Bail Application No.99 of 2022 dated 14th March, 2022, is hereby quashed and set aside.
- III. In the event of arrest of appellant (Musa 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, he shall be released on bail on his furnishing P.R. bond of Rs.20,000/- (Rupees Twenty Thousand Only) with one or two solvent sureties of the like amount on the following conditions :

- a) The appellant shall furnish his in detail address and cell number before the concerned Court and the police station.
- b) The appellant 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.]