

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

CRIMINAL APPEAL NO. 568 OF 2020

1. Sayas Honaji Rathod
Age: 72 years, Occu.: Agri.,
2. Narayan Nathrao Rathod
Age: 30 years, Occu.: Agri.,

Both R/o Pohandul Tanda, Tq. Sonpeth,
Dist. Parbhani

..APPELLANTS

VERSUS

1. State of Maharashtra
Through P.I. Sonpeth Police Station,
2. Manohar Kuseba Awale
Age: 27 years, Occu.: Private Service,
R/o Pohandul Tanda, Tq. Sonpeth,
Dist. Parbhani

..RESPONDENTS

**AND
CRIMINAL APPEAL NO. 569 OF 2020**

1. Rahul Sayas Rathod
Age: 24 years, Occu.: Agri.,
2. Santosh Navraj Rathod
Age: 28 years, Occu.: Agri.,
3. Shivaji Fula Rathod
Age; 58 years, Occu.: Agri.,

All R/o Pohandul Tanda, Tq. Sonpeth,
Dist. Parbhani

..APPELLANTS

VERSUS

1. State of Maharashtra
Through P.I. Sonpeth Police Station,

2. Manohar Kuseba Awale
Age: 27 years, Occu.: Private Service,
R/o Pohandul Tanda, Tq. Sonpeth,
Dist. Parbhani

..RESPONDENTS

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Mr. A.D. Khot, Advocate for appellants
Smt. D.S. Jape, A.P.P. for respondent no.1 – State
Mr. A.S. Deshpande, Advocate for respondent no.2 (appointed)

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CORAM : R.G. AVACHAT, J.
DATED : 21st MARCH, 2022

PER COURT :

1. Both these appeals under Section 14-A of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 ('the Act') are being decided by this common order since the challenge in these appeals is to the orders dated 17th October, 2020 passed by the learned Additional Sessions Judge, Gangakhed in Criminal Miscellaneous Application (Bail) Nos. 197 of 2020 and 199 of 2020 respectively, refusing to grant the appellants anticipatory bail in connection with Crime No. 296 of 2020 registered with Sonpeth Police Station, Dist. Parbhani for the offences punishable under Sections 324, 323, 504, 506, 143, 147, 148, 149, 294 of the Indian Penal Code ('I.P.C.') and under Sections 3(1)(r) and 3(1)(s) of the Act.

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

3. It has been averred in the F.I.R. that the informant belongs to *Holar* (Blacksmith) community. His is the only family of the said community in the village Pohandul Tanda. All other villagers are either of *Paradhi* or *Banjara* community. In the village there is a public water tap by the side of the road. The villagers fetch water therefrom. On 24th August, 2020 by 05.30 p.m. mother and wife of the informant had been to the water tap to fetch water. There had already been a que of the villagers to fetch water. When turn of the informants mother and wife came, Dinesh Rathod, Karan Chavan and Balu Rathod (co-accused) said the informant's mother that unless all the villagers fetched the water, persons of her community shall not fetch. She, therefore, questioned those three. Thereupon they abused her over her caste. They also said nothing wrong had happened with them in spite of the criminal case lodged earlier by her against them. The trio again abused the informant's mother and wife in filthy language. Karan Chavan assaulted the informant's mother with an iron rod. The other two beat up the informant's wife with fisticuffs. Shivaji Rathod – Appellant No.3 (Criminal Appeal No. 569 of 2020) instigated to beat them up. The informant, his brother, father and nephew intervened. The other appellants herein were present there. All of them

abused them over their caste. Karan Chavan assaulted the informant with an axe handle.

4. Learned A.P.P. and learned counsel for Respondent No.2 – informant would submit that the allegations in the F.I.R. undoubtedly make out an offence against the appellants herein. Therefore, there is bar under Section 18 of the Act to grant pre-arrest bail to the appellants. They, therefore, urged for dismissal of the appeals.

5. The appeals have been pending for about one and half year. The appellants herein have been protected with an ad-interim relief. The allegations against them are only that Shivaji Rathod instigated Dinesh Rathod, Karan Chavan and Balu Rathod to beat the informant's mother and wife. The appellants have further been alleged to have abused them over their caste in chorus.

6. The averments in the F.I.R. themselves indicate that some crime earlier had been registered against the trio at the instance of the informant's mother. Same suggests that relationship between them was not good. It is just difficult to imagine the appellants (five in number) would abuse in chorus. No specific incriminating material has been attributed against the appellants herein. The appellants were in fact bystanders. As such, veracity of the allegations in the F.I.R. is in doubt.

7. In view of this Court, the appeals are need to be allowed. Interim relief granted to the appellants vide orders dated 02nd November, 2020 is hereby confirmed. Both the criminal appeals stand disposed of accordingly.

8. Fees of Mr. A.S. Deshpande, learned counsel is quantified to Rs.5,000/-.

(R.G. AVACHAT, J.)

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