

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

CRIMINAL APPEAL NO. 679 OF 2022

Govind Balaji Desai

.. Appellant

Versus

The State of Maharashtra
Through Police Inspector and another

.. Respondents

Mr. R. N. Dhorde, Senior Advocate i/by V. S. Kadam, Advocate for the Appellant.

Mr. S. W. Munde, APP for Respondent No. 1.

Mr. D. M. Hange, Advocate for Respondent No. 2 (Appointed).

CORAM : KISHORE C. SANT, J.

DATED : 10th OCTOBER, 2022.

P C. :-

1. Heard learned advocates for both the parties.
2. The appellant is seeking bail in connection with FIR registered with Purna Police Station bearing number 115/2022 dated 10.08.2022 in respect of an incident that has taken place on 09.08.2022 at 14.00-14.30 hours. It is an allegation in the FIR that the informant is working as Senior Technician in the MSEDCL Sub-Division. It is alleged that the appellant happens to be son of one Mr. B. R. Desai who happens to be a local leader. When the electricity connection got disconnected father of the appellant called the informant and requested him to see the fault

and to restore supply. It is alleged that after some time this appellant went to office of the informant/respondent No. 2 and abused him in the name of his caste and he also assaulted with his shoe.

3. It is argued by the learned senior advocate for the appellant that there is delay in lodging FIR. The incident has taken place between 14.00-14.30 hours on 09.08.2022 whereas, FIR is lodged on 10.08.2022 at 20.50 hours. There is no sufficient explanation as because of the insult the informant got frightened and for that reason he could not immediately lodge the report. Secondly, he submitted that the incident has taken place in the office of respondent No. 2. It is pointed out from the order passed by the learned Trial Court that there are witnesses who have not supported the case of prosecution. Learned senior advocate submits that the appellant is well studied person having Doctorate in his credit and he is working in Vasantrao Naik Marathwada Krushi Vidyapeeth, Parbhani. It is very unlikely that such person would commit an offence that too under the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 (for short "Atrocities Act").

4. Learned advocate for respondent No. 2 opposes the appeal stating that there is specific allegation against the appellant who has abused the informant in the name of his caste and has also assaulted

him in the presence of 2-3 other persons who were present in the office and thus, an offence has taken place in a public view and prays for rejection of appeal.

5. Heard learned APP for State. He submits that offence is serious one. The informant is a public servant who is threatened by the appellant in the name of his caste. He has produced on record statements recorded by the I.O. during the course of investigation in which he shows that there are allegations against the appellant.

6. There are some statements recorded under Section 164 of the Code of Criminal Procedure (for short "Cr.P.C."). Though two persons are supporting the case of prosecution, however at the same time there are two persons who have not supported the case of prosecution in statements under Section 164 of the Cr.P.C.

7. Considering material, it is seen that though serious allegations are made, but considering the fact that the FIR is lodged after more than 24 hours and that some of the persons are not supporting the case of prosecution, I feel it proper to allow the appeal. Considering the nature of offence that it is under Atrocities Act, certain conditions are required to be imposed. Hence, the following order.

ORDER

(I) Appeal is allowed.

(II) The appellant shall be released on bail on furnishing P.R. bond of Rs. 25,000/- (Rs. Twenty Five Thousand only) and one solvent surety in the like amount in the event of his arrest in connection with FIR No. 115/2022 dated 10.08.2022 for the offence punishable under Sections 353, 332, 504, 506 r/w 34 of the Indian Penal Code and Section 3 (1) (r) (s) of Atrocities Act on a condition that he shall attend the Police Station at least twice in a week i.e. on every Wednesday and Sunday as per the time convenient to the I.O. and co-operate with the Police.

(III) The appellant shall not enter village Chudawa except on Wednesday and Sunday only for the purpose of attending Police Station and shall not try to contact the informant or any of the witnesses.

8. Criminal appeal is disposed of accordingly.

9. Learned advocate for respondent No. 2 is appointed by the Court. His fees is quantified @ Rs. 5,000/- (Rs. Five Thousand only) to be paid through Legal Aid.

(KISHORE C. SANT, J.)

PS.B.