

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

910 CRIMINAL APPEAL NO.691 OF 2022

**MUKUND TUKARAM CHAVAN AND ANOTHER
VERSUS
THE STATE OF MAHARASHTRA AND ANOTHER**

Mr. Vaibhav B. Dhage, Advocate for the appellants
Mr. S. W. Mundhe, APP for the respondents/State
Ms. Sunita G. Sonwane, Advocate for the respondent No.2

CORAM : KISHORE C. SANT, J.

DATE : 18th October, 2022

P. C.

1. Heard learned advocate for the appellants, learned advocate for respondent No.2 and learned APP for the respondent/State.

2. FIR is lodged on 26-07-2022, in respect of incident that took place on 22-07-2022. It is alleged that these applicants alongwith one Mangala-accused No.3 had been to the house of the informant. Applicant No.1 alleged to have assaulted by iron rod by giving blow in the head of the informant. Thus, the offence is registered under Sections 326, 324, 323, 504, 506

read with Section 34 of the IPC. Thereafter, the police recorded supplementary statement of the informant on 31-08-2022. There are also statements of independent witnesses who are not belonging to scheduled caste and scheduled tribes, in which for the first time, it is stated that abuses were given in the name of caste. Thus, sections 3(1)(r)(s) of the Atrocities Act came to be added. Accused No.3 is already released on anticipatory bail by the learned Sessions Court by order dated 06-09-2022. These applicants are arrested on 30-07-2022.

3. It is the submissions of the learned advocate for the accused that in fact no offence under the Atrocities Act was registered against the appellants. It is only after recording supplementary statements, provisions of atrocities act are added. He further submits that since last more than two months the applicants are in jail. After obtaining the injury certificate Section 326 is deleted by the Investigating Officer which shows that nature of injury was not grievous and incident is not very grave in nature and he prays for regular bail.

4. Learned APP produced on record the statements of independent witnesses who support the case of the informant and prays to reject the application.

5. Learned advocate for respondent No.2 also vehemently opposed the prayer of the appellants.

6. Considering the submissions and considering the fact that the appellants are in jail since 30-07-2022, injuries are not that serious and therefore, offence under Section 326 is also deleted, provisions of Atrocities Act were added only after recording of supplementary statements which were recorded after more than one month of the FIR, the case is made out for grant of bail. Hence, the following order:

ORDER

a] The appeal is allowed.

(4)

criapl691.22

b] Impugned order dated 06-09-2022, passed by the learned Additional Sessions Judge, Nanded in Bail Application in CR No. 149 of 2022 is quashed and set aside.

c] The appellants be released on bail on furnishing PR bond in the sum of Rs.25,000/- [Rupees Twenty Five Thousand] with one surety in the like amount.

d] The appellants shall not tamper with the evidence and shall not try to contact the prosecution witnesses.

e] The appellants shall attend the police station twice in a week as per the convenience of the Investigating Officer.

f] The appeal is disposed off.

[KISHORE C. SANT, J.]