

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

CRIMINAL APPEAL NO.740 OF 2022

1. Pradeep Kasinath Balapure
*(Appeal disposed of against
appellant no.1 vide order
dt.17.10.2022)*
 2. Sandeep Kashinath Balapure,
 3. Sangameshwar Vishwanath Balapure,
 4. Santosh Kashinath Balapure,
 5. Vishwanath Sambhaji Balapure,
 6. Rajesh Ananda Balapure
- ..Appellants

Vs.

The State of Maharashtra and anr. ..Respondents

Mr.Sachin G. Joshi, Advocate for appellants
Mr.R.B.Bagul, APP for respondent no.1
Mr.S.S.Pidgewar, Advocate for respondent no.2

**CORAM : R.G.AVACHAT AND
R.M.JOSHI, JJ.**

DATE : NOVEMBER 16, 2022

ORDER :-

This is an appeal under Section 14-A of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 ("Act of 1989", for short). The challenge in this appeal is to the order dated 27.09.2022 below Exh.1 in Cri. Bail Application No.140 of 2022, rejecting the appellants' application for pre-arrest bail in connection with Crime No.0131 of 2022 registered with Naigaon Police Station, Tq.

Naigaon, Dist. Nanded, for the offences punishable under Sections 326, 452, 324, 323, 504, 506, 143, 147 and 148 of Indian Penal Code and Sections 3(1)(r), 3(1)(s) and 3(2)(va) of the Act of 1989.

2. Heard learned counsel for the parties.

3. The First Information Report (FIR) is lodged by one Gajanan Perke on 04.09.2022 in relation to the incident that took place the preceding day, i.e. on 03.09.2022 by 10.00 in the morning. It is alleged in the FIR that the informant had been to the house of his maternal uncle for lunch on 03.09.2022. The lunch was hosted in connection with some ceremony. The contract to supply drinking water was given to Vishwanath Balapure, one of the appellants herein. There was previous quarrel over a petty issue between the informant on one hand and the family of appellant – Vishwanath, on the other. Said quarrel was settled by village elders.

4. It is further averred that while the informant was reaching his maternal uncle's residence, all the appellants and the co-accused came together. They were armed with axe, sticks and chilly powder. All of them abused the informant over his caste. They inquired, as to where his maternal uncle, Devidas, was. They

asked the informant to send Devidas out of his house, otherwise they would enter the house. The informant inquired with appellant-Sandeep. The appellant-Sandeep, thereupon, beat the informant with fisticuffs and stick as well. The informant entered his maternal uncle's house. All the appellants and the co-accused followed him. The appellants and the co-accused assaulted Devidas, his wife Pooja and Pawan as well. The appellants and the co-accused brought those three into the front-yard of the house of Devidas. Appellant-Pradeep assaulted Devidas with the blunt side of axe (*Tumba*). Appellants-Sangameshwar and Rajesh assaulted Pawan with sticks. Co-accused Priyanka, Anusaya, Kantabai and Sarubai threw chilly powder in the eyes of Pooja. It is alleged that appellants-Sangameshwar and Rajesh also assaulted Pooja with sticks. On hearing cries, some of the villagers came. They took the injured to Primary Health Centre at Naigaon. Then, the injured were referred to the Government Hospital at Vishnupuri, Nanded.

5. Close reading of the FIR indicates that although appellants namely, Sandeep, Santosh and Vishwanath, have been attributed with some overt acts, there are no injury certificates of their victims. Appellant – Vishwanath is little over 62 years of age.

6. There was nothing to suggest use of chilly powder. There is delay of little over 24 hours in lodging of the FIR. Admittedly, the relation between the parties are not cordial. Almost all the family members appear to have been roped in.

7. After having gone through the FIR and the papers of investigation so far made, we are inclined to grant relief to the appellants – Sandeep, Santosh and Vishwanath.

8. The appeal has already been disposed of as infructuous vide order dated 17.10.2022 as against appellant no.1 – Pradeep, since he has been arrested.

9. On having realised our disinclination to grant relief to appellant nos.3 and 6, namely, Sangameshwar and Rajesh, learned counsel for the appellants, on instructions, came around to withdraw their appeal.

10. In view of the above, we pass the following order:-

(i) The appeal stands disposed of as withdrawn as regards appellant no.3 - Sangameshwar Vishwanath Balapure and appellant no.6 - Rajesh Ananda Balapure.

- (ii) Interim relief granted to appellant no.4 – Santosh Kashinath Balapure vide order 17.10.2022, is made absolute.
- (iii) In the event of arrest of appellant nos.2 and 5 namely, Sandeep Kashinath Balapure and Vishwanath Sambhaji Balapure in connection with Crime No.0131 of 2022 registered with Naigaon Police Station, Tq. Naigaon, Dist. Nanded, for the offences punishable under Sections 326, 452, 324, 323, 504, 506, 143, 147 and 148 of Indian Penal Code and Sections 3(1)(r), 3(1)(s) and 3(2)(va) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989, they be released on bail on executing P.R. Bond in the sum of Rs.15,000/- (Rupees Fifteen Thousand) each with one surety each in the like amount.
- (iv) Appellant nos.2, 4 and 5 namely, Sandeep Kashinath Balapure, Santosh Kashinath Balapure and Vishwanath Sambhaji Balapure shall appear before the Investigating Officer as and when call for.
- (v) They shall not tamper with the prosecution evidence.

[R. M. JOSHI, J.]

[R.G. AVACHAT, J.]

KBP