

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

CRIMINAL APPEAL NO. 766 OF 2022

Satish Balasaheb Suryawanshi

..APPELLANT

VERSUS

State of Maharashtra and Another

..RESPONDENTS

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Mr. V.D. Salunke, Advocate h/f Mr. M.V. Salunke, Advocate for appellant

Mr. R.B. Bagul, A.P.P. for respondent no.1 – State

Mr. Vishnu Jaware, Advocate for respondent no.2

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

DATE : 16th NOVEMBER, 2022

PER COURT :

1. This is an appeal under Section 14-A(2) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 ('the Act'). The challenge in this appeal is to an order dated 28th September, 2022 rejecting the application (Criminal Bail Application No. 492 of 2022) passed by the learned District and Sessions Judge, Osmanabad in connection with Crime No. 182 of 2022 registered with Osmanabad Rural Police Station, Dist. Osmanabad for the offences punishable under Sections 307, 323, 504, 506 read with Section 34 of the Indian Penal Code ('I.P.C.') and under Sections 3(2)(b), 3(2)(va), 3(1)(r), 3(1)(s) of the Act.

2. Heard. Perused the First Information Report ('F.I.R.') and the papers of investigation so far made.

3. The F.I.R. has been lodged by one Nitin Kamble on 06th September, 2022 in relation to the incident that took place at 09:15 p.m. of the previous day. It is his case that he was proceeding from Osmanabad toward his house in his Swift Dezire car. While he was passing by a pan stall of one Gavali at village Deolali, the applicant, alongwith one unknown person riding pillion on one motorbike, came from opposite side. The informant, therefore, stopped his car. The applicant dashed his motorbike against the stationary car from front side. He then got down and abused the informant. The informant, therefore, came out of his car. The applicant's brother – Abhay also came there. Both of them asked the informant to withdraw the case lodged against them under the Act. Both of them gave threats to the informant's life if he did not withdraw the said prosecution. Both, the appellant and his brother again abused the informant over his caste. Abhay assaulted the informant on his head with an iron rod. The applicant beat him up with a stone. The villagers gathered. None of them, however intervened since there is terror of the appellant.

4. Learned counsel for the appellant would submit that there is delay of over twenty-four hours in lodging the F.I.R. It was, in fact, the applicant, who had been assaulted by the informant – Nitin Kamble. The police have shown undue favour to the informant. The appellant was arrested while he was in hospital. The appellant has suffered multiple injuries. The police

initially did not take cognisance of the report lodged by the appellant. Learned counsel further submits that little over two months and eight days have passed post arrest of the appellant. Investigation is almost complete. He, therefore, urged for allowing the appeal.

5. Learned A.P.P. would, on the other hand, submit that injury certificate of the informant suggests him to have suffered number of injuries. The appellant has criminal antecedents. Proceedings under the Maharashtra Prevention of Dangerous Activities of Slumlords, Bootleggers, Drug Offenders and Dangerous Persons Act, 1981, have been initiated against him. If the appellant is granted bail, he would again indulge in criminal activities. Investigation is still in progress. Rejection of the application was, therefore, urged for.

6. On the same lines are the submissions made by learned counsel for the informant.

7. Considered the submissions advanced. It appears that a fight ensued between the appellant and his brother on one hand and the informant on the other. Both, the appellant and the informant suffered multiple injuries. Nature of the injuries suffered by the appellant are simple. Perusal of injury certificate of the informant suggests he suffered four C.L.Ws. and one

contusion. One of the five injuries are stated to be grievous in nature. The appellant is alleged to have assaulted the informant with a stone. Little over two months and eight days have passed post arrest of the appellant. Investigation of the crime might have been complete by now. We find the appellant's further pre-trial detention unwarranted. So far as regards the criminal antecedents of the appellant are concerned, appropriate conditions could be imposed while granting him bail.

8. In the result, appeal succeeds in terms of following order :-

ORDER

- (i) Criminal appeal is allowed.
- (ii) Impugned order dated 28th September, 2022, passed by the learned District and Sessions Judge, Osmanabad rejecting the Criminal Bail Application No. 492 of 2022, is hereby set aside.
- (iii) Application (Exh.1) is allowed.
- (iv) The appellant be released on bail in connection with Crime No. 182 of 2022 registered with Osmanabad Rural Police Station, Dist. Osmanabad for the offences punishable under Sections 307, 323, 504, 506 read with Section 34 of the Indian Penal Code ('I.P.C.') and under Sections 3(2)(b), 3(2)(va), 3(1)(r), 3(1)(s) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989, on executing P.R. bond in the sum of Rs.15,000/- (Rupees Fifteen Thousand) with one surety in the like amount.

(v) The appellant shall not enter village Deolali, Dist. Osmanabad for next seven months.

(vi) The appellant shall mark his attendance with Osmanabad Rural Police Station, Dist. Osmanabad everyday between 11:00 a.m. to 12:00 noon for next one month and then once a month for further six months.

(vii) The appellant shall not tamper with the prosecution evidence.

(R.M. JOSHI, J.)

SSD

(R.G. AVACHAT, J.)