

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

CRIMINAL APPEAL NO.607 OF 2021

Tatyrao Bhaskar Gadade

..Appellant

Vs.

The State of Maharashtra
and anr.

..Respondents

Mr.S.T.Mahajan, Advocate for appellant

Mr.S.P.Sonpavale, APP for respondent no.1

Ms.N.V.Borse, Advocate for respondent no.2

CORAM : R.G. AVACHAT, J.

DATE : JANUARY 04, 2022

PER COURT :-

Heard. Perused the FIR.

2. This appeal has been directed against the order dated 08.11.2021 passed on application Exhibit-1 in Criminal Bail Application No.458 of 2021, rejecting the application of the appellant for grant of anticipatory bail.

3. The FIR has been lodged on 16.10.2021 of the incident dated 15.10.2021. It has been alleged therein that the appellant herein abused the informant over his caste (scheduled caste) and assaulted him with stone.

4. Learned counsel (appointed) representing the informant would submit that the FIR makes out the offences under Sections 3(1)(r) and 3(1)(s) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989. The Sessions Court has, thus, rightly rejected the application.

5. Learned APP also makes the submissions on the same lines.

6. Learned counsel for the applicant would submit that the statement of the informant under Section 164 of the Code of Criminal Procedure was recorded, wherein he testified that no such incident, as has been alleged in the FIR, did take place. It is his case that he fell from motorbike and suffered injuries.

7. The statement of the informant recorded under Section 164 of the Code of Criminal Procedure dilutes the allegations made in the FIR. In the circumstances, the appeal is allowed in terms of the following order:-

- (i) In the event of arrest in connection with Crime No.316 of 2021 registered with Ambajogai Rural Police Station, Ambajogai,

Dist. Beed, for the offences punishable under Sections 324, 323, 504 and 506 read with Section 34 of Indian Penal Code and under Sections 3(1)(r) and 3(1)(s) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989, the appellant be released on executing P.R. Bond in the sum of Rs.15,000/- (Rupees Fifteen Thousand) with one surety in the like amount.

- (ii) The appellant shall not tamper with the prosecution evidence in any manner.
- (ii) The appellant shall report to the concerned Police Station as and when called for.

8. Legal fee of Ms.N.V.Borse, learned counsel, who has been appointed to represent respondent no.2, is quantified at Rs.7,000/- (Rupees Seven Thousand) to be paid by High Court Legal Services Authority, Aurangabad.

[R.G. AVACHAT, J.]

kbp