

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

CRIMINAL APPEAL NO. 710 OF 2021

Shobhabai @ Shobha Vijay Akhade ..APPELLANT

VERSUS

State of Maharashtra and Another ..RESPONDENTS

AND

CRIMINAL APPEAL NO. 711 OF 2021

Vasudeo Puna Patil ..APPELLANT

VERSUS

State of Maharashtra and Another ..RESPONDENTS

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Mr. S.P. Brahme and Mr. A.R. Syed, Advocates for appellants

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

Mr. M.R. Wagh, Advocate for respondent no.2

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CORAM : R.G. AVACHAT, J.

DATED : 17th FEBRUARY, 2022

PER COURT :

1. Both these appeals under Section 14-A of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 are being decided by this common order since they are inter-connected. The challenge in these appeals is to the orders refusing to grant the appellants anticipatory bail in connection with Crime No. 114 of 2021 registered with Mohadi Police Station, Dist. Dhule for the offences punishable under Sections 354, 323, 504, 506 and 427 read with Section 34 of the Indian Penal Code ('I.P.C.') and under Sections 3(1)(r) and 3(1)(s) of the Act.

2. Heard. Perused the First Information Report ('F.I.R.') and the papers relied on.

3. The F.I.R. has been lodged on 12th December, 2021 in relation to the incident that took place the previous day. It has been alleged in the F.I.R. that one Milind Baisane, Proprietor of Panchashil Motor Driving School, is the cousin of the informant. The informant would visit his driving school many a time. Relationship between Milind Baisane and Shobhabai Akhade – one of the appellant, was not good since both of them were running their own driving schools. On 11th December, 2021 by 06.00 p.m. the informant was standing outside the Regional Transport Office, Dhule waiting for auto-rickshaw. Both the appellants came in a white car. They stopped and got down. Appellant - Vasudeo Patil was armed with iron rod and appellant – Shobhabai had a wooden stick in her hand. Both of them abused the informant in filthy language. Appellant – Vasudeo abused over her caste. Both of them beat her up with iron rod and wooden stick. The appellant – Vasudeo became physical with her with an intention to outrage her modesty. The informant raised alarm. Her sister Baijabai Bagul and one Manohar Wankhede came there. They rescued the informant. She, thereafter went to the police station. The police referred her for medical treatment. On the next day she lodged the F.I.R.

4. The appellant – Shobhabai belongs to the Scheduled Caste. The offences under the Act, therefore, do not get attracted against her. Offence punishable under Section 354 of the I.P.C. cannot be attributed to her. Rest of the offences, allegedly committed by her, are bailable one. Her appeal, therefore, deserves to be allowed as it is.

5. So far as regards appellant – Vasudeo is concerned, it has rightly been submitted by learned counsel for him that the F.I.R. has been lodged as counter blast to the F.I.R. lodged by appellant – Shobhabai against the informant's cousin Milind Baisane and her wife alleging both of them to have had abused over her caste. This Court has granted anticipatory bail to both of them. The papers of investigation, so far made, have been placed on record by learned A.P.P. It appears that nobody is claiming to have witnessed the alleged incident. Even there are statements of some of them contending that no such incident did take place. The informant had axe to grind against both the appellants. As such, veracity of the averments in the F.I.R. is doubtful. In such circumstances, learned Judge ought to have granted anticipatory bail to both the appellants herein.

6. Both the appeals, therefore, succeed. Same are allowed in terms of following order :-

ORDER

(i) In the event of arrest of the appellants in connection with Crime No. 114 of 2021 registered with Mohadi Police Station, Dist. Dhule for the offences punishable under Sections 354, 323, 504, 506 and 427 read with Section 34 of the 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, they be released on their executing P.R. bonds in the sum of Rs.15,000/- (Rupees Fifteen Thousand) each with one surety each in the like amount.

(ii) The appellants shall not tamper with the prosecution evidence.

(iii) The appellants shall appear before the investigation officer as and when required.

(R.G. AVACHAT, J.)

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