

Anand

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

CRIMINAL APPEAL NO. 566 OF 2021

Somnath @ Dada Maruti Khomane & ors. .Appellants

Vs.

The State of Maharashtra & anr. .Respondents

Mr. Prashant S. Hagare, Advocate, for the Appellants
Mr. A. R. Kapadnis, APP, for the Respondent No. 1 – State

CORAM : N. R. BORKAR, J.

DATE : 19.09.2022

P. C.

. This Appeal is filed under Section 14A of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 (“SCST Act” for short) against an order passed by the learned Special Judge, Baramati, Pune dated 01.07.2021 in Criminal Bail Application Nos. 655 & 659 of 2021.

2. By the order impugned, the trial Court rejected the Bail Applications filed by the present Appellants, who are accused in C.R. No. 537 of 2021 registered with the Yavat Police Station, Pune(Rural) for the offences

punishable under Sections 354-B, 323, 504, 506, 143 of the Indian Penal Code and under Sections 3(1)(r), 3(1)(s), 3(2) (va) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act.

3. On 22.07.2021, this Court passed the following order:-

“1. Heard learned Counsel for the appellants.

2. Learned Counsel for the appellants does not press the aforesaid appeal, qua the appellant No. 1 - Somnath @ Dada Maruti Khomane and states that the said appellant No. 1 will surrender before the appropriate Court on or before 26th July 2021, after giving 24 hours prior notice to the police of the Yavat Police Station, Pune Rural of the date and time of surrender. Statement accepted.

3. As far as appellant Nos. 2 and 3 are concerned, by this appeal, the appellant Nos. 2 and 3 seek pre-arrest bail in connection with C. R. No. 537 of 2021, registered with the Yavat Police Station, Pune Rural, for the alleged offences punishable under Sections 354-B, 323, 504, 506, 143 of the Indian Penal Code; under Sections 3(1)(r), 3(1)(s), 3(2) (va) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act and under Section 7(1)

(d) of Protection of Civil Rights Act.

4. *Learned Counsel for the appellants states that a perusal of the First Information Report/complaint shows that the abuses with respect to the caste have not been done by the said appellants but by appellant No. 1 - Somnath @ Dada Maruti Khomane. He submits that the main allegations are as against appellant No. 1 - Somnath @ Dada Maruti Khomane of assault/tearing of clothes of the complainant as well as of caste abuse on the complainant. He submits that the appellant No. 2 - Dheeraj Somnath Khomane, is aged 22 years and appellant No. 3 - Sulabai Maurti Khomane is a lady. He submits that the said appellants i. e. appellant Nos. 2 and 3 have no antecedents.*

5. *Issue notice to the respondents, returnable on 5th August, 2021. Learned APP waives notice on behalf of the Respondent No. 1 - State and seeks time to take instructions. In addition to the Court service, Advocate for the appellants to serve the respondent No. 2, by Advocate's notice and file affidavit of service before the returnable date.*

6. *Learned APP also assures to inform the respondent No. 2 through the concerned Officer of the concerned police station of the aforesaid date.*

7. *Having heard learned counsel for the appellants, the appellant No. 2 - Dheeraj Somnath Khomane and appellant No. 3 - Sulabai Maruti Khomane, have prima-facie made out a case for grant of interim protection. In*

the meantime, till the next date, the appellant Nos. 2 and 3 are granted interim protection, on the following terms and conditions :-

ORDER

(i) In the event of the arrest, the appellant Nos. 2 and 3 be enlarged on bail on furnishing P. R. Bond in the sum of Rs. 20,000/- each, with one or two sureties in the like amount;

(ii) The appellant Nos. 2 and 3 shall report to the Investigating Officer of the concerned Police Station on 27th and 28th July, 2021, between 10.00 a.m. to 12.00 noon and thereafter as and when called.

8. Stand over to 5th August, 2021.

9. As far as appellant No. 1 - Somnath @ Dada Maruti Khomane is concerned, the appeal qua him is dismissed, as not pressed. The appellant No. 1 - Somnath @ Dada Maruti Khomane to surrender before the appropriate Court on or before 26th July, 2021, after giving 24 hours prior notice to the police of the Yavat Police Station, Pune Rural of the date and time of surrender.

10. All concerned to act on the authenticated copy of this order."

4. Learned APP on instructions submits that during the pendency of the present Appeal the State has filed the charge-sheet.

5. This Court by order dated 22.07.2021 had already dismissed the Appeal qua the Appellant No. 1.

6. In view of the filing of charge sheet, instead of entertaining the present Appeal it would be appropriate to direct the Appellant Nos. 2 & 3 to file Regular Bail Applications before the competent Court and to continue the order passed by this Court dated 22.07.2021 till the decision of the competent Court in the Applications for Regular Bail.

7. The Appellant Nos. 2 & 3 are directed to file an Application for Regular Bail within a period of three weeks from today. If such Bail Applications are filed, the concerned Court shall decide it on its own merits without being influenced by the order passed by this Court dated 22.07.2021.

8. The interim Bail granted to the Appellant Nos. 2 & 3 by order dated 22.07.2021 shall continue to operate till the decision of the competent Court in the Applications for

Regular Bail.

9. The Criminal Appeal is disposed of in the aforesaid terms. Needless to mention that the concerned Court before passing an order on Regular Bail Applications of the Appellant Nos. 2 & 3, shall grant an opportunity of hearing to the Respondent No. 2.

(N. R. BORKAR, J.)