

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

CRIMINAL APPEAL NO.481 OF 2020

Eknath Rajaram Chavhan Appellant
versus
State of Maharashtra and Anr. Respondents

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Mr. Aniket Nikam, Advocate a/w. Piyush Toshnival, Amit Icham,
Vivek N. Arote for the Appellant.

Mr. S. R. Agarkar, APP for the State/Respondent No.1.

CORAM : SARANG V. KOTWAL, J.

DATE : 29th NOVEMBER, 2022

PC. :

1. In this matter the respondent No.2 is served and one Advocate has filed his Vakilpatra on behalf of the respondent No.2. On 21.11.2022, nobody appeared for the respondent No.2 and even today nobody has appeared for the respondent No.2. Therefore, I am deciding this Appeal.

2. The appellant has challenged the order dated 27.11.2020 passed by the Special Judge, Pune in Criminal Bail Application No.4113 of 2020. In effect, the appellant is seeking

anticipatory bail in connection with C.R. No.100 of 2020 dated 23.02.2020 registered with Shikrapur police station, Pune under Sections 323, 504, 506 read with Section 34 of the Indian Penal Code and under Sections 3(1)(r),(s), 3(2)(va), 6 and 7 of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 as well as under Section 7 of the Protection of Civil Rights Act.

3. The FIR is lodged by the respondent No.2. He has stated that on 19.2.2020 at about 8:30 a.m., he was returning back from his daughter's school. He was stopped by the appellant and one Balasaheb Mohite. They asked him to do some plumbing job for them. The respondent No.2 demanded Rs.3,000/- for that job. Both the accused told him that he should not ask money from them and then threatened him. It is alleged that they abused him with reference to his caste. There are some abuses attributed to co-accused Balasaheb Mohite. Thereafter there are allegations in the FIR that the appellant picked up a stone to hit on Respondent No.2's head. In the

meantime, the appellant kicked the Respondent No.2 because of which the respondent No.2 fell on an iron compound because of which he suffered injuries on his legs. The others present at the spot rescued him. On this basis, the FIR is lodged.

4. Learned counsel for the Appellant submitted that the first informant had lodged an N.C. complaint regarding the same incident on that very day i.e. on 19.2.2020 and in that N.C. complaint, there is absolutely no reference to the abuses with reference to caste. The only allegation was causing abrasions on his legs because he was pushed by the appellant.
5. Learned counsel for the appellant, therefore, submitted that the allegations in the FIR are not true. In the FIR the abuses with reference to caste are made generally and it is not specifically attributed to the present appellant.
6. Learned APP, on the other hand, opposed this Appeal and relied on the medical certificate, which shows injury to his neck, as alleged by the respondent No.2. Learned APP also

relied on the statement of an independent witness Sagar Bhalerao where the abusive language with reference to the caste is attributed to the appellant.

7. I have considered these submissions. The offence had taken place more than two and half years ago. In the N.C. complaint lodged on that very day, there is absolutely no reference to any abuses with reference to the caste. The FIR is lodged belatedly on 23.2.2020, which shows that there could be some exaggeration regarding the incident. Sagar Bhalerao's statement was recorded on 23.2.2020. Thus, the allegations at the very first instance when the respondent No.2 had approached the police station do not show commission of offence under the Atrocities Act. There is sufficient doubt created about the correctness of the story. The statements of the witnesses show that a quarrel was going on and even the respondent No.2 was abusing. It is mentioned in the statement of Mahesh Halde. Thus, the story of the respondent No.2 does not appear to be completely true. The incident is old. Sufficient doubt is created. Therefore, the appellant deserves to be

granted protection of anticipatory bail. Hence, the following order :

ORDER

- (i) The appeal is Allowed.
- (ii) In the event of his arrest in connection with C.R. No.100/2020, registered at Shikrapur Police Station, Pune the applicant is directed to be released on bail on his executing P.R. bond in the sum of Rs.30,000/- (Rupees Thirty Thousand Only) with one or two sureties in the like amount.
- (ii) The appeal is disposed of accordingly.

Digitally signed
by
PRADIPKUMAR
PRAKASHRAO
DESHMANE
Date:
2022.12.03
10:31:05 +0530

(SARANG V. KOTWAL, J.)