

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO. 785 OF 2022

- | | | | |
|----|-----------------------------------|---|----------------|
| 1. | Pritesh Chagan Pandhare |] | |
| | Age 19 years, Occ. Student |] | |
| | |] | |
| 2. | Sajan Manohar Pandhare |] | |
| | Age 19 years, Occ. Student |] | |
| | |] | |
| 3. | Harshal Balu Ghavat |] | |
| | Age 19 years, Occ. Student |] | |
| | All are residing at Tute Village, |] | |
| | Tal. Shahapur, District Thane. |] | ... Appellants |

V/s.

The State of Maharashtra	]	
At the instance of Sr. Police Inspector,	]	
Shahapur Police Station, District Thane.	]	... Respondent

Mr. Vinayak R. Patil for Appellants.
 Mr. H. J. Dedhia, A.P.P for Respondent-State.
 Mr. Anil S. Kamble for Original Complainant.
 API Mr. Nitin Shivdas Khairnar, Shahapur Police Station is present.

**CORAM : A. S. GADKARI &
 SHARMILA U. DESHMUKH, JJ.**

DATE : 10th August 2022.

PC. :

1. By the present appeal under Section 14-A of The Scheduled Castes and The Scheduled Tribes (Prevention of Atrocities) Act, 1989 (for

short, "S.C. & S.T. Act"), the Appellants (Original Accused Nos.1, 3 & 4 respectively) have impugned the Order dated 20th July 2022 passed by the learned Additional Sessions Judge, Kalyan, rejecting their application for pre-arrest bail in connection with F.I.R. No. 0273 of 2022, dated 3rd July 2022, for the offence punishable under Sections 3(1)(r), 3(2)(va) of S.C. & S.T. Act and Sections 326, 324, 504 read with 34 of I.P.C., filed under Section 438 of The Criminal Procedure Code (for short, 'Cr.P.C.').

2. Heard Mr.Patil, learned Advocate for Appellant, Mr.Dedhia, learned A.P.P. for State and Mr.Kamble, learned Advocate for Original Complainant. Perused record of investigation.

3. It is the case of prosecution that, on 3rd July 2022 at about 8.30 pm the first informant Mr.Devidas Salvi had been to Shahapur. He returned at about 11.30 am and while proceeding to his home, he heard noise of quarrel near a poultry farm owned by Mr.Sadu Pandhare. He reached near the said spot and noticed that, his nephews namely, Karan Kiran Salvi, Siddharth Jagdish Salvi, Pratik Pradip Ghayvat and his cousin brother Amit Damodhar Wadhvinde were having quarrel with Appellants and co-accused Nikhil Pandhare. Appellants along with Nikhil Pandhare were assaulting his nephews and cousin brother. The first informant tried to pacify the said quarrel. At that time, Appellant No.2 abused him on his caste in filthy language and other two Appellants along with Sajan Pandhare assaulted him and his nephews on head

and other parts of body with wooden logs, threatened them with dire consequences and ran away from the scene of offence. In this brief premise, present crime is registered.

4. Mr.Patil, learned Advocate for Appellants submitted that, the Trial Court has granted pre-arrest bail to co-accused Nikhil Pandhare, who has been assigned with same and/or similar role as of Appellant No.1 Pritesh C. Pandhare and Appellant No.3 Harshal Balu Ghavat. He submitted that, as Nikhil Pandhare has been granted pre-arrest bail, present Appellants are also eligible to get pre-arrest bail on the ground of parity. He submitted that, Nikhil Pandhare has lodged a cross case bearing C.R. No. 0274 of 2022, dated 4th July 2022, for the offence punishable under Sections 324, 504, 506, 427 read with 34 of The Indian Penal Code (for short, "I.P.C.") against the informant herein and others. That, the Trial Court has committed an error in not appreciating the said facts and has rejected their pre-arrest bail application by the impugned Order dated 20th July 2022. He therefore prayed that, the present appeal may be allowed, by setting aside impugned Order and the Appellants may be protected by pre-arrest bail.

5. At the outset, it is to be noted here that, in present case there is a counter case filed by Nikhil Pandhare i.e. Accused No.2 in present crime arising out of same incident. Thus the presence of Appellants at the scene of offence on the date and time is not in dispute and is admitted.

The allegations of first informant that, the Appellants herein assaulted him, his nephews Karan Salvi and Siddharth Salvi have been duly corroborated by the Medical Certificates issued by the Medical Officer (Accident Department), Sub-District Hospital Shahapur, District Thane, dated 3rd July 2022. As noted earlier, the crime in-question herein is dated 3rd July 2022 lodged by Mr.Devidas Salvi. The Medical Certificates issued by the Medical Officer, Sub-District Hospital, Shahapur, mentions following injuries on the person of injured witnesses :-

1. Devidas Kaluram Salvi

Sr. No.	Type of Injury	Site of Injury	Size of Injury	Probable Weapon
1	Contused Abrassion	Over Back-Right sided	20 cm x 5 cm	Blunt trauma weapon (likely hit by stick)
2	Contused Abrassion	Over Back-Left sided	4 cm x 8 cm	Blunt trauma weapon
3	Nose bleeding	--	--	Blunt trauma
4	Swelling Contusion	Over Cheek	8 cm x 2 cm	Blunt trauma

2. Karan Kiran Salvi

Sr. No.	Type of Injury	Site of Injury	Size of Injury	Probable Weapon
1	Contused Abrated Wound	Over left Hand	4 cm x 2 cm	Blunt trauma weapon
2	Contused Line Abrassion	Over Back (left sided)	10 cm x 5 cm	Blunt trauma weapon (likely hit by stick)
3	Abrassion	Left chest	1 cm x 0.5 cm	Blunt trauma

3. Siddharth Jagadish Salvi

Sr. No.	Type of Injury	Site of Injury	Size of Injury	Probable Weapon
1	Visible contusion not seen (Blunt trauma)	Right sided to lower to the chest area + abdomen	--	Blunt trauma

The CT Scan report of Devidas Salvi mentions as under :-

“Nasal septum appears to be of “S” shaped with hypertrophied inferior turbinates, right maxillary sinus mucosal polyp, left maxillary sinusitis seen. There is fracture of the anterior/lateral wall of the left maxillary sinus.”

6. There are three injured witnesses in the present crime. Learned A.P.P. on instructions submitted that, as per investigation carried out till today, there are other two eye witnesses to the alleged incident. The version of first informant is duly corroborated by other injured witnesses on the point of abusing him in filthy language on his caste at public place and within the public view. Thus, a strong case prima facie under Section 3(1)(r) and 3(2) (va) of S.C. & S.T. Act has been made out against the Appellants. Section 8 of S.C. & S.T. Act is also squarely attracted in the present case. The Appellants are therefore not entitled for their release on pre-arrest bail.

7. Apart from the above, as noted earlier the version of first informant about assault by the Appellants has been duly corroborated by the

Medical Certificates dated 3rd July 2022 issued by the concerned Medical Officer. The weapons used in the present crime are yet to be recovered from the Appellants.

There is sufficient material available on record to clearly indicate complicity of Appellants in the present crime. After taking into consideration the material available against the Appellants, this Court is of the considered view that, the Appellants do not deserve to be released on pre-arrest bail.

8. Perusal of impugned Order dated 20th July 2022 indicates that, the Trial Court has not committed any error either in law or on facts, while passing it.

9. There are no merits in the Appeal.

Appeal is accordingly dismissed.

[SHARMILA U. DESHMUKH, J.]

[A. S. GADKARI, J.]

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