

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

CRIMINAL APPEAL NO. 1037 OF 2022

Ananda Sadashiv Pasare & Ors.

..Appellants

Versus

The State of Maharashtra & Anr.

..Respondents

Mr. Satish Borulkar i/b. Ajit M. Savagave for Appellants.

Mr. P. H. Gaikwad, APP for State/Respondent No.1.

Mr. Anand S. Patil for Respondent No.2.

CORAM : SARANG V. KOTWAL, J.

DATE : 19th OCTOBER 2022

PC :

1. The Appellants have challenged the order dated 11/10/2022 passed by learned Additional Sessions Judge, Special Court, Kolhapur in Anticipatory Criminal Bail Application No.923 of 2022. The applicants are seeking anticipatory bail in connection with C.R.No.287 of 2022 registered with Kagal police station under sections 327, 324, 323, 143, 147, 148, 149, 504 and 506 of I.P.C. and under sections 3(1)(r),(s), 3(2)(va), 6 and 3(2)(v) of the

Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 (for short 'SC & ST Act').

2. Heard Shri. Satish Borulkar, learned counsel for the Appellants, Shri. Gaikwad, learned APP for the State/Respondent No.1 and Shri. Anand Patil, learned counsel for the Respondent No.2.

3. The F.I.R. is lodged by one Onkar Raut. He has described two incidents dated 26/09/2022 and 27/09/2022. On the first date, he has described the incident which had taken place in a religious procession at about 8.30 to 9.00p.m. When the procession had reached near the Municipal corporation's office, some of the appellants were dancing with knives in their hands. At that time, the informant and others told them not to indulge in those acts. It is alleged that the appellant Tilya @ Nitikesh Wadkar put a knife to his throat and gave blow on the informant's hand. It is alleged that the appellant Yogesh Chougale and Mund Gondhali held Omkar Sonule and showed him a knife and abused him with reference to his caste. There is a general statement that Anil

Wadkar, Tilya Wadkar, Yogesh Chougule, Ajay Pasare and Vijay Pasare hurled abuses with reference to the caste.

4. On the next day i.e. on 27/09/2022, at about 10.30a.m. the informant and others came to the house of one Prakash Gadekar and requested him to settle the dispute. At that time, the appellants were in the same area. They came with weapons and started assaulting the informant's group. It is alleged that, the appellants Ananda Pasare and Anil Wadkar abused Prakash Gadekar with reference to his caste. On this basis the F.I.R. is lodged.

5. At the outset, learned counsel for the Appellants makes a statement that he is not pressing this Appeal for the Appellant No.1 Ananda Sadashiv Pasare, Appellant No.2 Anil @ Laxman Sakharam Wadkar and the Appellant No.5 Yogesh Sunil Chougule. Therefore, I have considered this Appeal only for the remaining appellants.

6. Learned counsel for the Appellants further submitted that the allegations in the F.I.R. against the appellants arise out of

an effort to counter blast the F.I.R. lodged on behalf of the Appellant's group. The said F.I.R. is registered at the same police station vide C.R.No.286 of 2022 on 28/09/2022, at about 4.50a.m. Said F.I.R. was mainly lodged U/s.307 of I.P.C. along with other sections. He submitted that, even otherwise, bare reading of F.I.R. does not make out a case against rest of the appellants whose appeal is being pursued.

7. Learned counsel for the Respondent No.2/original first informant submitted that the offence is clearly made out. The appellants were carrying weapons and they had assaulted the informant's group. They had also hurled abuses and, therefore, the offence is made out. He submitted that, their custody would be necessary for recovery of weapons.

8. Learned APP produced investigation papers before me. I have perused those papers. Learned APP opposed this Appeal. He submitted that the offence is made out against all the appellants and they do not deserve any protection.

9. I have considered these submissions. As far as, injury

certificates are concerned, there are injury certificates of Omkar Sonule, the first informant and Prakash Gadekar. All the injuries are minor injuries. There was minimal redness and, therefore, there is no question that either of the injuries could have been caused by knives. Learned APP also submitted that, as far as, appellant's group is concerned, even injuries suffered by their group members were simple injuries. Therefore, I am only looking at the fact of the case to see as to whether any offence under SC & ST Act is made out which attracts bar U/s.18 of the Act. For that purpose, apart from the F.I.R. the statement of Omkar Sonule is important. In his statement, Omkar Sonule has specifically attributed role of hurling abuses with reference to his caste to the appellant Yogesh Chougule. There is a general statement against the other appellants namely Anil Wadkar, Tilya Wadkar, Ajay Pasare and Vijay Pasare, but no specific utterance is attributed to them individually. On his general statement it is not clear as to who had actually uttered those words. As far as, allegations of hurling abuses against Prakash Gadekar is concerned, it is specifically restricted to the appellants Ananda Pasare and Anil

Wadkar. Those allegations are not made against rest of the appellants. In this view of the matter, except those three appellants for whom learned counsel for the appellants has not pressed the Appeal, the others can be protected.

10. Hence, the following order:

O R D E R

- i) The Appeal on behalf of the Appellant No.1 Ananda Sadashiv Pasare, Appellant No.2 Anil @ Laxman Sakham Wadkar and the Appellant No.5 Yogesh Sunil Chougule is allowed to be withdrawn.
- ii) In the event of arrest of Appellant Nos.3, 4 and 6 to 10 in connection with C.R.No.287 of 2022 registered with Kagal police station, these appellants are directed to be released on bail on their furnishing P. R. bonds in the sum of Rs.30,000/- each (Rupees Thirty Thousand each Only) with one or two sureties each in the like amount.
- iii) The Appellants shall co-operate with the investigation. They shall report to the concerned

police station once in a fortnight for a period of six months from today.

iv) The Appeal is disposed of accordingly.

(SARANG V. KOTWAL, J.)