

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

Criminal Appeal No.355 of 2021

Pankaj Suresh Adhe and others,

Versus

State of Maharashtra, through P.S.O., Police Station Telhara, District Akola and
another.

Office Notes, Office Memoranda of
Coram, appearances, Court's Orders
or directions and Registrar's order

Court's or Judge's Order

Shri A.R. Deshpande, Advocate for appellants
Shri S.A. Ashirgade, A.P.P. for respondent No.1/State
Shri S.D. Dewani, Advocate for respondent No.2.

CORAM : ANIL S. KILOR, J.

DATED : 02 MARCH 2022

A crime was registered against the appellants with allegations that the appellants have abused the complainant on his caste and also assaulted him. The crime was registered as Crime No.173 of 2021 with Police Station Telhara, District Akola, for the offences punishable under Sections 323 and 504 read with Section 34 of the Indian Penal Code and Section 3(1)(r),(s) of the Scheduled Caste and Scheduled Tribe (Prevention of Atrocities) Act, 1989.

2. This Court vide order dated 01/09/2021 had granted *ad-interim* anticipatory bail to the

appellants. It is pointed out that in the meantime, charge-sheet has been filed in this matter.

3. Shri Deshpande, learned Counsel for the appellants submits that even taking the allegations made in the First Information Report on its face, no offence is attracted against the appellant Nos.1 and 2.

4. As regards appellant No.3, he submits that some of the witnesses have stated in their statements that no such incident, as alleged by the complainant, had taken place. He, therefore, submits that as the charge-sheet is filed and as the statements of some of the witnesses are not corroborating the alleged incident, order dated 01/09/2021 may be confirmed.

5. On the other, the learned APP and the learned Counsel for the respondent No.2 strongly opposed the application and it is pointed out that some of the witnesses have corroborated the story narrated by the complainant in the First Information Report. It is submitted that some of the witnesses are independent witnesses and one of the witnesses is belonging to the caste of the appellants. In that view of the matter, a prayer is made to reject the present application.

6. On perusal of the charge-sheet and also going through the contents of the First Information Report, it is clear that the appellant Nos. 1 and 2 came in picture subsequently. At the time of alleged incident of abuse on caste or assault to the complainant, the appellant Nos. 1 and 2 were not present. In that view of the matter, it is a fit case for grant of anticipatory bail to the appellant Nos.1 and 2.

7. As regards appellant No.3, as *prima facie* incriminating material is available, which supports case of the complainant, I am not inclined to grant bail to the appellant No.3. As such, at this stage, learned Counsel for the appellant submits that appellant No.3 does not want to press this appeal.

8. In the above referred backdrop, the appeal is **partly allowed**.

9. The impugned order dated 24/08/2021 passed by the learned Sessions Judge, Akot in Misc. Criminal Application No.165 of 2021 is quashed and set aside *qua* the appellant No.1-Pankaj Suresh Adhe and appellant No.2- Sachin Prakash Adhe. The

appeal on behalf of the appellant No.3 is permitted to withdraw.

10. The order dated 01/09/2021 is confirmed *qua* the appellant Nos.1 and 2. Appellant Nos. 1 and 2 shall attend the concerned police station as and when their presence is required.

The Criminal Appeal stands **disposed of** accordingly.

[ANIL S. KILOR, J.]

R.S.Sahare