

1

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
NAGPUR BENCH, NAGPUR**

CRIMINAL APPEAL NO.690 OF 2022

Aleem Kasam Benivale,
Aged about 34 years, occupation agriculture
and agricultural labourer,
R/o Shivani, taluka Mangrulpir,
District Washim. **Appellant.**

:: V E R S U S ::

1. State of Maharashtra,
Through Dy.S.P.Washim,
I/c Mangrulpir, District Washim,
Crime No.696/2022,
Police Station Mangrulpir,
District Washim.

2. Avinash s/o Gajanan Tale,
Aged 21 years, occupation agriculturist,
R/o Village Parwa, tahsil Mangrulpir,
District Washim. **Respondents.**

=====

Shri A.K.Bhangde, Counsel for the Appellant.

Shri M.K.Pathan, Additional Public Prosecutor for the State.

=====

CORAM : **ROHIT B.DEO & URMILA JOSHI-PHALKE, JJ.**
DATE : **16/12/2022**

ORAL JUDGMENT (Per : Rohit B.Deo, J.)

1. The challenge is to order dated 30.9.2022 rendered by learned Additional Sessions Judge, Mangrulpir in MCA 288/2022 whereby the appellant – accused is denied bail in Crime 696/2022 registered with Police Station Mangrulpir for offences punishable under Sections 307, 326, 323, and 504 read with Section 34 of the Indian Penal Code and under Section 3(1)(r)(s), 3(2)(5), 3(2) (5a)

.....2/-

2

of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989.

2. The allegation is that the appellant – accused was one of the four accused who assaulted brother of informant Avinash Gajanan Tale and hurled castiest abuses.

3. Initially, offence was registered punishable under Section 326 of the Indian Penal Code. Subsequently, offences punishable under Section 307 of the Indian Penal Code and Atrocities Act were added.

4. Submission is that role attributed to the appellant – accused is assault by fist blows. The appellant – accused has complied with conditions imposed while granting *interim* protection.

5. Considering the role attributed to the appellant – accused, there is no question of any recovery or discovery as such and investigation shall not be hampered if the *interim* protection is confirmed.

6. While learned Additional Public Prosecutor Shri M.K.Pathan for the State is seriously opposing the grant of bail, we are satisfied that considering the role attributed to the appellant – accused, case is made out for confirming the pre-arrest protection.

3

7. We further note that *prima facie* it is other co-accused one Nissar, who hurled castiest abuses.

8. The *interim* protection granted vide order dated 21.10.2022 is confirmed, subject to following conditions.

9. Till final report is filed, the appellant -accused shall attend the concerned police station every Sunday from 11:00 am to 2:00 p and shall cooperate with the Investigating Officer.

10. The appellant – accused shall not make any attempt to influence or threaten witnesses.

11. Violation of conditions may *ipso facto* entail cancellation of the bail.

12. The appeal is **allowed** and disposed of.

(URMILA JOSHI-PHALKE, J.)

(ROHIT B.DEO, J.)

!! BrWankhede !!

BHUSHAN
RANA
WANKHEDE

Digitally signed
by BHUSHAN
RANA
WANKHEDE
Date: 2022.12.16
17:15:36 +0530

...../-