

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

**CRIMINAL APPEAL NO.535 OF 2021**

Santosh S/o Jankiram Kale and others

**Versus**

State of Maharashtra, through P.S.O., P.S. Jalamb, Tah. Nandura, Dist. Buldhana

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

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Court's or Judge's Order

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Ms. Samruddhi Warade, Adv. h/f Shri S.V. Sirpurkar, Adv. for the  
appellant.

Shri M.J. Khan, A.P.P. for the respondent No.1/State.

**CORAM : ANIL S. KILOR, J.**

**DATED : 16/03/2022**

1. Crime No.328 of 2021, dated 01.12.2021 was registered with Police Station Jalamb, District Buldhana on a complaint of the Surendrasingh Raisingh Daberao who is injured one, against the appellant Nos.1, 2 and 3 unknown persons for the offence punishable under Sections 324, 323, 143, 147, 148, 149 of the Indian Penal Code and Sections 3(1)(r) and 3(1)(s) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities Act), 1989.

2. The allegations in this case are that the appellant Nos.1 and 2 assaulted the complainant by spate and stone and abused the complainant on his caste. It is further alleged that the appellant Nos.3 to 5, came there subsequently, on the spot and they also assaulted the complainant by fist and blows.

3. After hearing this matter at length and on expressing a view that this Court is not inclined to grant pre-arrest bail to the appellant Nos.1 and 2, Ms Samruddhi Warade, learned counsel for the appellant, does not want to press this appeal *qua* the appellant No.1-Santosh S/o Jankiram Kale and Appellant No.2-Sagar S/o Santosh Kale.

4. Accordingly, the permission is granted as sought for and appeal *qua* the appellant Nos.1 and 2 is disposed of, as withdrawn.

5. As far as the appellant Nos.3, 4 and 5 are concerned, in the First Information Report, there are no allegations that they abused the complainant on his caste. Moreover, the allegations made in the FIR and the Injury Report do not show that any injury was caused to the complainant because of the appellant Nos.3 to 5. Even in the FIR, there is mention that the appellant Nos.3 to 5 reached at the scene of the incident, subsequently.

6. Though the respondent No.2 is served, nobody appears.

7. In the circumstances, I am of the opinion that the appellant Nos.3, 4 and 5 namely Ganesh S/o Tejrao Khond, Gaurav S/o Tejrao Khond and Sopan S/o Shankar Khond, are entitled for grant of pre-arrest bail, as *prima facie* there are no allegations which would attract the provisions of Atrocities Act against the appellant Nos.3, 4 and 5. In that view of the matter, I pass the following order:

- a) The appeal is allowed *qua* the appellant Nos.3, 4 and 5.
- b) The order of rejecting regular bail of the appellant Nos.3, 4 and 5, dated 06.12.2021 in Regular Bail Application No.311 of 2021, passed by the I/c. Special Judge, Malkapur, District Buldhana, is hereby quashed and set aside.
- c) In the event of arrest of the appellants Nos.3, 4 and 5, namely Ganesh S/o Tejrao Khond, Gaurav S/o Tejrao Khond and Sopan S/o Shankar Khond, in Crime No. 327 of 2021, dated 01.12.2021, registered with Police Station Jalamb, District Buldhana for the offence punishable under Sections 324, 323, 143, 147, 148, 149 of the Indian Penal Code and Sections 3(1)(r) and 3(1)(s) of the Scheduled Castes and Scheduled tribes (Prevention of Atrocities Act), they shall be released on bail on furnishing P.R. Bond of Rs.15,000/- each with one solvent surety in the like amount for each of the appellants.
- c) The appellants shall not tamper with the prosecution witnesses.

The criminal appeal is **disposed of**, accordingly.

[ANIL S. KILOR, J.]