

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

CRIMINAL APPEAL NO. 36 OF 2023

1. Navnath Laxman Wagmode

2. Aruna Navnath Wagmode

.. Appellants

Versus

The State of Maharashtra and another

.. Respondents

Mr. Sudhakar T. Mahajan, Advocate for the Appellants.

Mr. Y. G. Gujarathi, APP for Respondent No. 1.

Smt. Vanita H. Sangole, Advocate for Respondent No. 2.

CORAM : KISHORE C. SANT, J.

DATED : 03rd MARCH, 2023.

P C. :-

. Heard learned advocate for the appellants, learned A.P.P. and learned advocate for respondent No. 2.

2. The appellants have approached this Court against the order passed by the learned Additional Sessions Judge, Ambajogai dated 22.12.2022 in Criminal Bail Application No. 570/2022 rejecting the bail in the event of arrest of these appellants. The respondent No. 2/informant lodged FIR with Ambajogai Police Station on 05.12.2022 bearing FIR No. 0529/2022. It is alleged that, son of the informant is working as contractor who started contractorship of

supplying labour for sugarcane cutting. The appellant No. 1 approached him for supply of labour and gave him Rs. 8,00,000/- (Rs. Eight Lakh only) in advance for supply of eight teams of sugarcane cutting labour. However, he supplied only seven teams and could not supply total eight teams. On that, the appellants started demanding the amount back or to supply the labour. Since the son of the informant had gone to Solapur, there was no one in the village except the informant and her husband. On 03.12.2022 at around 8.30-9.00 p.m. when the husband of the informant had gone on duty to the school as night watchman, the informant received a mobile phone call that her husband is being beaten and therefore, she went there along with her son in law. There, it was found that, appellant No. 1 – Navnath was heating stones at the husband of the informant. Appellant No. 2 also had stone in her hands and she was beating the husband with feast and blows. The informant and others tried to intervene, however, at that time, appellant No. 1 started abusing in the name of caste. He also further threatened to do away with the husband of the informant. The Police registered the FIR for the offences punishable under Sections 324, 323, 504, 506 r/w Section 34 of the Indian Penal Code (for short “I.P.C.”) and Sections 3 (1) (r), 3 (1) (s) and 3 (2) (va) of the Scheduled Caste and Scheduled Tribe (Prevention of Atrocities) Act (for short “Atrocities Act”).

3. The appellants approached the learned Sessions Court seeking bail in the event of arrest, however, the same came to be rejected. The appellants are therefore before this Court with a prayer to release them on bail in the event of arrest.

4. With the assistance of learned advocate, this Court has gone through the FIR. On going through the FIR, it is seen that, appellant No. 1 had abused Venkatrao in the name of his caste. So far as appellant No. 2 is concerned, the only allegation that, she also assaulted Venkatrao.

5. Learned advocate for the appellants submits that, though there appears to be abuse in the name of caste, but it is without any intention. Appellant No. 1 is falsely implicated as he is demanding the money or the labour from the son of the informant. Since the son of the informant do not want to pay the amount, the appellants are falsely roped into an offence. So far as appellant No. 2 - Aruna is concerned, learned advocate submits that, there is no allegation that she has abused in the name of caste. He further submits that, he received information that the injuries are simple and not serious. It is submitted that, in fact, it is the dispute on account of money and there is no reason for the appellants to have intention in the mind to abuse someone in the name of caste.

6. Learned A.P.P handed over the police papers wherein, it is seen that, there are statements of the persons showing the involvement of the appellant Nos. 1 and 2. There are statements that appellant No. 1 has, in fact, abused the husband of the informant in the name of caste. From the injury certificate he submits that, it is clearly seen that, there are injuries received by Venkatrao. Learned A.P.P submits that, though injuries are simple, but at the bottom of certificate it is reported that, there is internal bleeding and thus injury is serious injury.

7. Learned advocate for respondent No. 2 vehemently opposes the appeal submitting that there are clear allegations against at least appellant No. 1. The appellant No. 2 has also taken part in the incident by assaulting Venkatrao and prays for rejection of bail.

8. Having considered the submissions, this Court finds that, the provisions of the Atrocities Act are attracted so far as appellant No. 1 is concerned as there is allegation showing that he has abused the person in the name of caste. Though the dispute is in respect of money, still it is not expected to abuse a person in the name of caste. If possibility of false implication was there, then the informant could have made same allegations even against appellant No. 2. There is nothing on record to doubt the genuineness of the information lodged in the police station. The learned Sessions Court has also rightly passed the order so far as

appellant No. 1 is concerned. The Court has however not considered the case of Aruna though there are no specific allegations attracting the offence under the Atrocities Act. Therefore, this Court finds that, the appeal can be partly allowed. Hence, the following order.

ORDER

(I) The appeal is partly allowed.

(II) The order passed by the learned Additional Sessions Judge, Ambajogai dated 22.12.2022 in Criminal Bail Application No. 570/2022 is quashed and set aside to the extent of appellant No. 2.

(III) The appellant No. 2 shall be released on bail in the event of arrest in connection with FIR No. 0529/2022 dated 05.12.2022 for the offences punishable under Sections 324, 323, 504, 506 r/w Section 34 of the I.P.C. and Sections 3 (1) (r), 3 (1) (s) and 3 (2) (va) of the Atrocities Act on furnishing P.R. bond and one solvent surety in the amount of Rs. 15,000/- (Rs. Fifteen Thousand only)

(IV) The appellant No. 2 shall attend the police station as and when called for and shall not try to pressurize the witnesses.

9. With this, the appeal stands disposed off.
10. Learned advocate for respondent No. 2 is appointed through legal aid. She will be entitled to receive the fees as per law.

(KISHORE C. SANT, J.)

PS.B.