

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

902 CRIMINAL APPEAL NO.257 OF 2023

**BASAWRAJ UMAKANT HONMALE
VERSUS
THE STATE OF MAHARASHTRA AND ANOTHER**

Mr.S.B. Madde, Advocate for the appellant.

Mr.S.R. Yadav-Lonikar, APP for the respondent/State.

Mr.Jitendra S. Jain, Advocate (appointed) for respondent No.2.

**CORAM : KISHORE C. SANT, J.
DATED : 18.04.2023**

PC :-

01. Heard learned Advocate for the parties. This is an appeal seeking regular bail in Special Case (Atrocities) No.25 of 2022, registered on the basis of FIR lodged on 05.04.2022 with Udgir City Police Station for the offences punishable under sections 324, 323, 294, 427, 504 and 506 of the Indian Penal Code and section 3(1)(r)(s) and 3(2)(va) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act. The applicant came to be arrested on 05.04.2022 immediately on registration of the FIR and since then he is in jail. His application for regular bail came to be rejected in Special (Atrocities) Case No.25 of 2022 by the learned Special Judge by order dated 23.08.2022.

02. The allegations in short are that the complainant – informant was engaged by the accused as his Advocate. Since he came to be convicted by the Court, it is alleged that this appellant abused the informant in the name of caste in the Court premises and he also assaulted the informant. The learned Special Judge in his order observed that there is strong case made out against the appellant. The act of the appellant is serious one. In a case he was convicted and was sentenced to suffer one year imprisonment and therefore he had abused the Advocate and rejected the application by order dated 23.08.2022. The learned Advocate for the appellant submits that in-fact, there was a dispute as regards professional charges. If there was any feeling in the mind of the appellant in respect of caste of the Advocate, he would not have engaged him to represent him in a criminal case. He further submits that other offences are not serious offences. However, because of sections under the Atrocities Act, his application came to be rejected. He submits that the appellant is in jail since last one year and no purpose would be served by keeping him in jail.

03. The learned APP opposes this appeal stating that the offence appears to be serious as the appellant has abused his own Advocate in the

name of caste and that too in the Court premises and prays for rejection of the appeal.

04. The learned Advocate appointed for respondent No.2 also opposes the appeal stating that the offence has taken place in the Court premises. One Advocate is abused in the name of accused and certainly this calls for serious cognizance and prays for rejection of the appeal.

05. Considering the submissions, this Court finds that the allegations are serious. It is not expected of a litigant to abuse his advocate because he could not get acquittal in a criminal case. However, considering that now it is more than one year, the appellant is in jail, this Court feels that no purpose would be served by keeping him further in jail. Hence, following order :-

ORDER

- (i) The appeal is allowed.
- (ii) The order dated 23.08.2022 passed by the learned Special Judge-1, Udgir in Special Case No.25 of 2022 on application below Exh.8, is quashed and set aside.
- (iii) The appellant shall be released on bail on executing PR bond of Rs.15,000/- (Rupees Fifteen Thousand) with one solvent surety in the like amount.

- (iv) The appellant shall not try to contact witnesses or the informant and shall not tamper with the evidence.
- (v) The learned Advocate Mr. Jitendra S. Jail appointed for respondent No.2 shall be paid Rs.5000/- (Rupees Five Thousand Only) by the High Court Legal Services Sub-Committee, Aurangabad, towards professional charges.
- (vi) The Criminal Appeal is accordingly allowed and disposed off.
- (vii) Parties to act upon authenticated copy of this order.

[KISHORE C. SANT, J.]