

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

903 CRIMINAL APPEAL NO.104 OF 2023

BALASAHEB DULHAJI DHOKANE AND ANOTHER  
VERSUS  
THE STATE OF MAHARASHTRA AND OTHERS

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Advocate for Appellants : Mr. Girase Amarjitsing B.  
APP for Respondents 1,2 : Mr. S R Yadav - Lonikar  
Advocate for Respondent 3 : Mr. M.P Gandle

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CORAM : KISHORE C. SANT, J.  
Dated: February 10, 2023

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**PER COURT :-**

1. Heard learned advocate Mr. Girase for the appellant, learned APP Mr. Yadav-Lonikar for respondent nos.1 and 2 - State and Mr Gandle, learned advocate for respondent no.3.

2. This is an appeal seeking bail in the event of their arrest in connection with the offence registered with Akhada Balapur Police Station, District Hingoli, bearing No.0012 of 2023 registered on 8.1.2023 for the offences punishable under sections 324, 341, 143, 147, 148, 149, 427, 504, 506 of the IPC and section 3(1)(r) 3(1)(s) and 3(2)(va) of the Scheduled Castes and Scheduled Tribes, Prevention of Atrocities Act, 1989 (for short the Atrocities Act).

aaa/-

3. Their application for same relief is rejected by the learned Additional Sessions Judge-3, Hingoli by order dated 27.1.2023 in Criminal Application No.16 of 2023.

4. It is the case of the informant that on 6.1.2023 at about 8 pm seven persons named in the FIR including the present applicants had coasted him while he was on the motorcycle and abused in the name of caste. It is alleged that appellant no.2 Laxman assaulted the informant by stick. Allegations so far as Balasaheb is concerned, he has assaulted the informant with the knife. There is a complaint lodged in the police station as he has received injuries.

5. Learned advocate for the appellants submit that looking at the FIR, no offence is made out attracting the provisions of the Atrocities Act. Though, it is alleged that the abuses were given in the name of caste, still no specific role is assigned to these appellants. Other allegations are not serious. Learned advocate pointed out the injury certificate and submits that all the injuries are simple injuries and there is no corroboration to the injury caused to the informant. Object also is shown to be hard and blunt. Learned advocate submits that thus the

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allegations that he has assaulted with knife itself is falsified. Learned advocate further submits that this complaint is filed only because there was some incident wherein Rahul, who is also shown as accused in the offence, was in fact injured at the hands of the informant and his father, and, therefore, he was hospitalized. This case is filed in view of that incident.

6. Learned APP submits that there are allegations against all the persons named in the FIR. He, further submits that as against Laxman, there is specific role attributed to him that he assaulted the informant with stick. So far as Balasaheb is concerned, learned APP submits that there are allegations that he used the knife and submits that no case is made out to grant bail in the event of their arrest. Even recovery of weapon knife is yet to be made from Balasaheb.

7. Learned counsel for respondent no.2 submits that when the case is made out under the Atrocities Act, this Court need not entertain this appeal in view of section 18 of the Atrocities Act. Now, this Court will have to consider whether really a case under the Atrocities Act is made out.

aaa/-

8. Looking at the FIR, it is clear that there is no allegations against Laxman so far as the offence under Atrocities Act are concerned. Other allegations seems to be that the informant was assaulted. The appellant No.2 has only used stick whereas appellant no.1 has though it is alleged that he has used knife, however, looking at the injury certificate of the informant, it is seen that the injuries are simple in nature. This court finds that theretofore, no purpose would be served by taking these appellants in custody. In view of the same, following order is passed.

### **ORDER**

- i. Criminal appeal is hereby allowed.
- ii. The order passed by the learned Additional Sessions Judge-3, Hingoli in Criminal application no.16 of 2023 dated 27.01.2023 is hereby quashed and set aside.
- iii. The appellant nos.1-Balasaheb Dhulhaji Dhokane and 2- Laxman Bhujangrao Dhokane be released on bail in the event of their arrest in connection with the offence registered with Akhada Balapur Police Station, Hingoli bearing No.0012 of 2023 registered on 8.1.2023 for the offences

punishable under sections 324, 341, 143, 147, 148, 149, 427, 504, 506 of the IPC and sections 3(1)(r), 3(1)(s) and 3(2)(va) of the Scheduled Castes and Scheduled Tribes, Prevention of Atrocities Act, 1989 on their furnishing PR Bond and solvent sureties in the sum of Rs.15,000/- (Rs. Fifteen Thousand) each, on following conditions :-

- a] The appellants shall not enter the village Bolda, Tq Kalamnuri, District Hingoli till, filing of the charge-sheet.
  - b] They shall attend the concerned police station as and when called by the I.O.
  - c] The appellants shall not tamper with the prosecution evidence in any manner and shall not pressurize the witnesses.
- iv. Criminal appeal is accordingly disposed off.

( KISHORE C. SANT, J. )

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