

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

**16 CRIMINAL APPEAL NO.232 OF 2023
WITH APEAL/203/2023**

**NITIN BHARAT GAYAKE AND OTHERS
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS**

Mr. Rajendra G. Hange, Advocate for the appellants in appeal No.232/2023

Mr. Vishal S. Kadam, Advocate for the appellant in appeal No.203/2023

Mr. P N. Kutti, learned APP and Mr. S. R. Yadav-Lonikar, APP for the respondents/State in respective matters

Mr. R. D. Thorat, Advocate for the respondent No.3

CORAM : KISHORE C. SANT, J.

DATE : 02nd MAY, 2023

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1. At the outset learned advocate for the appellants seeks leave to withdraw the appeal to the extent of appellant No.1-Nitin Gayake in Appeal No.232/2023. Leave is granted.

2. This appeal is against the order below Exh. Exh.1 in Criminal Bail Application No.122 of 2023 passed by the learned Additional Sessions Judge, Beed dated 04-03-2023 who thereby rejected their bail in the event of their arrest in connection with

Crime No. 0040/2023 dated 12-02-2023 registered with Rural Police Station, Beed for the offences punishable under Sections 354, 323, 143, 147, 149, 504, 506 of the Indian Penal Code and Sections 3(2)(va), 3(1)(r), 3(1)(s) and 3(1)(w) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act.

3. It is the allegations in the FIR that on 12-02-2023 all the accused persons came near the house of the informant and abused in the name of the caste and assaulted the informant with the kicks, fists and blows. One Bharat alongwith present appellant No.1 Nitin are alleged to have torn the blouse of the wife of the informant. This incident was reported to the police by the informant. The police registered the FIR. During the pendency, the appellant Nos. 3,4 and 6 in Appeal No. 232/2023 came to be arrested and now it is reported that they are released on regular bail. So far as Yuvraj, Kalyan and Shivraj are concerned it is argued that there are no specific allegations against them attracting the offence punishable under Section

3(2)(va), 3(1)(r) and 3(1)(s) of the Atrocities Act. It is the submission that informant belongs to rival group in the village. The informant and the accused belongs to different political parties having strong groups in the village politics. It is further submitted that there are even earlier complaints by Nitin against the informant on 07-02-2023 about the incident that took place on 07-02-2023. He submits that because of the rivalry in the village politics false information is lodged against the appellants.

4. Learned advocate for respondent No.3 vehemently opposed the appeal submitting that there are clear allegations made against all the accused persons not only that they have assaulted the informant but also they have outraged the modesty of the wife of the informant. He also states that there is constant threat to the informant in the village. If the appellants are released on bail they will create law and order situation in the village and prays for rejection of the bail.

5. Learned APP submits that there are statements

supporting the FIR. There are serious allegations against the appellants. Out of them Bharat, Krushna and Vishal are already arrested and released on bail. However, these appellants do not deserve the bail. He produced on record copies of the statements recorded during course of the investigation. It is seen that there are clear allegations against Nitin.

6. It is submitted by the learned advocate for the appellants that so far as Yuvraj Gayake, Kalyan Gayake and Shivraj Bangar are concerned, there are no specific allegations alleging that they have abused in the name of caste.

7. After considering the submissions, this court finds that a case is made out to allow both the appeals. Hence, the following order:-

ORDER

a] The criminal Appeals stand allowed.

b] Criminal Appeal No.232 of 2023 is disposed of

as withdrawn to the extent of appellant No.1- Nitin Bharat Gayake.

c] Appellant Nos.2- Yuvaraj Baban Gayake, appellant No.5-Kalyan Chandan Gayake in Appeal No.232/2023 and the appellant-Shivraj Jana Bangar in Appeal No.203/2023 be released on bail in connection with Crime No.0040/2023, registered with Rural Police Station, Beed dated 12-02-2023 for the offences punishable under Sections 354, 323, 143, 147, 149, 504, 506 of the Indian Penal Code and Sections 3(2)(va), 3(1)(r), 3(1)(s) and 3(1)(w) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act on furnishing PR bond in the sum of Rs.15,000/- [Rupees Fifteen Thousand Only] each with one solvent surety on following terms and conditions:

[i] The appellants shall not try to contact any of the witnesses or the

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informant in any case.

[ii] The appellants shall not tamper with the prosecution evidence.

[iii] The appellants shall attend the concerned police station as and when called by the Investigating Officer and shall cooperate in the investigation.

[iv] The appellants shall give the contact details such as mobile number or the residential address to the concerned police station, if any change.

[KISHORE C. SANT, J.]

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