

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

**15 CRIMINAL APPEAL NO.215 OF 2023**

**DATTU @ DATTATRAYA KESHAV GAGARE AND ANOTHER  
VERSUS  
THE STATE OF MAHARASHTRA AND ANOTHER**

Mr. Satej S. Jadhav, Advocate for the appellant  
Mr. S. S. Thombre, Advocate for the respondent No.2  
Mrs. D. S. Jape, APP for the respondents/State

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

**DATE : 02<sup>nd</sup> MAY, 2023**

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1. Heard for final disposal by consent of the parties.
2. The appellants have approached before this court challenging the order dated 01-03-2023 passed below Exh.1 in Criminal Bail Application No. 235/2023 by the learned Additional Sessions Judge, Ahmednagar rejecting the application for bail in the event of arrest of the appellants in connection with Crime No.0152/2023, Registered at Rahuri Police Station, Ahmednagar dated 07-02-2023 for the offences punishable under Sections 324, 452, 323, 504 of the Indian Penal Code and

Sections 3(2)(va), 3(1)(r) and 3(1)(s) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act.

3. It is alleged that on 04-02-2023 at around 09.00 pm these appellants assaulted the informant in Dr. Babasaheb Ambedkar Chowk on count of hand loan. At that time it is alleged that both the appellants assaulted the informant and abused him in the name of caste. Second incident alleged is at around 11.00 pm when the informant was in the house. That time it is alleged that appellant No.2 assaulted the informant with the iron rod. Appellant No.1 at that time abused the informant in the name of caste. In the said incident the informant received injuries. The FIR was therefore lodged on 07-02-2023.

4. Learned advocate for the appellants submits that so far as the incident at around 09.00 pm is concern, though it has taken place in the public view still there is no specific allegations as to which of the appellants abused the informant in the name

of caste. So far as the incident at around 11.00 is concerned, from the FIR it is clear that the said incident was taken place in the house and therefore ingredients of Sections 3(1)(r) and 3(1)(s) of the Atrocities Act are not attracted as the incident cannot be said to have taken place in the public view. He further submits that even considering the injuries caused by the iron rod is concerned, it cannot be said to be a dangerous weapon. As it is FIR is only registered for the offences punishable under Sections 323 and 324 of the IPC. In view of the same, he submits that this is a clear case of bail in the event of arrest.

5. Learned APP for the respondents/State placed on record the police papers. From the police papers it is seen that there are two statements of the members of the family of the informant in respect of second incident that took place at around 11.00 pm. So far as the injury certificate is concerned it is seen that all the injuries are caused by hard and blunt object. Both the injuries are simple in nature. There is no significant abnormality is detected to the brain.

6. Learned advocate for the informant vehemently opposed the appeal stating that when the successive incidents have taken place it clearly shows that the appellants had come with certain object. This also shows that they carried serious grudge against the informant. He submits that as per the allegations about the incident at 09.00 pm the allegations that abuses in the name of caste are given by both the appellants and therefore it is not specifically stated in respect of abuse. However, it is not clear that both of them have abused in the name of caste.

7. Considering the submission and considering that second incident has taken place in the house wherein there is specific allegations of abusing the informant in the name of caste by appellant No.1. However said cannot be considered to be in public view. As regards the incident at 09.00 it is seen that there is no specific allegations as to which of the appellants exactly abused the informant in the name of caste. Looking to

the injuries it is seen that both the injuries are simple in nature and therefore, the police added only sections 323 and 323 which are punishment of three years and one year respectively. Both the offences are thus not serious.

8. Considering the above position this court finds that the appeal deserves to be allowed by imposing certain conditions. Hence, the following order:

**ORDER**

a] The criminal appeal stands allowed.

b] The order passed by the learned Additional Sessions Judge, Ahmednagar dated 01-03-2023 below Exh.1 in Criminal Bail Application No.235/2023 is hereby quashed and set aside.

c] The appellants be released on bail in connection with Crime No.0152/2023, Registered at Rahuri Police Station, Ahmednagar dated 07-02-

2023 for the offences punishable under Sections 324, 452, 323, 504 of the Indian Penal Code and Sections 3(2)(va), 3(1)(r) and 3(1)(s) 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 in the like amount on the following terms and conditions:

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

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the residential address to the concerned  
police station, if any change.

**[KISHORE C. SANT, J.]**

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