

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

912 CRIMINAL APPEAL NO.317 OF 2022

**SAGAR SUBHASH WAGH
VERSUS
THE STATE OF MAHARASHTRA AND ANOTHER**

Mr. Mohid S. Shah, Advocate h/f Mr. R. S. Devdhe, Advocate for the appellant

Mr.B. G. Sagade Patil, Advocate for the respondent No.2

Mr. Y. G. Gujrathi, APP for the respondents/State

CORAM : KISHORE C. SANT, J.

DATE : 01st FEBRUARY, 2023

P. C.

1. Heard the learned advocate for the parties.
2. This is an appeal seeking release of appellant on bail in the event of his arrest in connection with Crime No. 56/2022 registered at Newasa Police Station, Dist. Ahmednagar dated 22-01-2022 for the offences punishable under Sections 324,323,504,506 read with Section 34 of the Indian Penal Code and Section 3(1)(r) and 3 (2)(va) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act. In the said crime the appellant is shown as accused No.1. The learned Additional Sessions Judge, Newasa by order dated 04-04-2022 has rejected the application for bail. The other two accused in the said crime

i.e. brother and father of the present appellant are already released on regular bail. Now even the charge-sheet is filed on 28-07-2022. The learned advocate for the appellant submits that looking at the FIR no offence is made out against the appellant attracting the provision of Atrocities Act. The utterance in the name of caste is alleged against father and brother i.e. accused Nos. 2 and 3 of the present appellant. They were arrested and are released on regular bail. Only allegations against this appellant is that he has assaulted the informant by iron rod and because of that the informant received fracture injury to his elbow of his left hand. He submits that the alleged incident is dated 20-12-2021 whereas the information is lodged on 22-01-2022. Thus, there is delay of more than one month and there is no sufficient explanation for the same. He submits that the appellant is on interim protection since May, 2022. There is no allegations of miss-use of liberty and prays that appeal be allowed.

3. Learned APP submits that there is record showing that informant received fracture injury to his elbow. In the complaint itself he has given reason for not filing the complaint immediately. He submits that though the police has issued notice to the appellant asking him to produce iron rod that was used while assaulting, he has not produced the same. The appellant is thus not co-operating in the investigation.

4. Learned advocate for respondent No.2 submits that after the incident of assault the informant was under pressure and he was not in a proper mental condition to lodge the FIR immediately. It is for this reason the delay caused. He submits that though there are no allegations of uttering the name of caste still he was very much present at the time of incident and he was also involved in the offence. Hence, he prays for rejection of the appeal.

5. On going through the FIR it is seen that there are no allegations that this appellant has abused the informant in the name of his caste. The allegations are only against the brother and father of the appellant. However, they were arrested and were released on regular bail and this fact is not disputed. Now even the charge-sheet is filed. Considering this, no purpose would be served by taking the appellant in custody. Hence, the following order:-

ORDER

- a] The Criminal Appeal stands allowed.
- b] The appellant shall be released on bail in the event of his arrest in connection with Crime No. 56/2022 registered at Newasa Police Station, Dist. Ahmednagar dated 22-01-2022 for the offences punishable under Sections 324,323,504,506 read

(4)

criapl317.22

with Section 34 of the Indian Penal Code and Sections 3(1)(r) and 3 (2)(va) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act on executing PR bond of Rs.15,000/- [Rupees Fifteen Thousand] with one solvent surety on following conditions:

i] The appellant shall attend the police station as and when called by the Investigating Officer.

ii] The appellant shall not try to contact any of the witnesses and shall not tamper with the evidence.

iii] The appellant shall not leave jurisdiction of the police station without informing the concerned police station.

[KISHORE C. SANT, J.]

VishalK/criapl317.22