

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

35 CRIMINAL APPEAL NO.511 OF 2023

1. Balaji Raju Raosaheb (As per FIR)
Balaji Rajeshwar Pandhare
2. Akash Baburao Raosaheb (As per FIR)
Akash Subhasrao Pandhare
3. Dinesh Ramrao Kotle (As per FIR)
Dinesh Ramdas Kotle
4. Avinash Ramdas Kotle
5. Abhay Madhukarreddy Dandewar
6. Amol Sanjayreddy Chepure
7. Madhav Umakant Apsange
8. Abhijit Dattureddy Chepure
9. Madhukarreddy Dandewad (As per FIR)
Mahukar Vithalreddy Dandewad
10. Akshay Digambar Chepure (As per FIR)
Akshay Digambarreddy Chepure .. Appellants

Versus

1. The State of Maharashtra
2. Amol Maroti Jadhav .. Respondents

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Advocate for Appellants : Mr. Sanket S. Palnitkar
APP for Respondent – State : Mr. V.S. Badakh
Advocate for Respondent No.2 : Mr. K.R. Yadav h/f Mr. S.J. Salunke

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CORAM : R. M. JOSHI, J.
DATE : AUGUST 28, 2023

PER COURT :

. Heard.

2. Appellants are apprehending arrest in connection with Crime No.111 of 2023 registered with Markhel Police Station, Dist. Nanded for the offences under Sections 143, 147, 148, 149, 452, 324, 323, 504, 506 of the Indian Penal Code and Sections 3 (1)(r), 3(1)(s), 3(2)(va) of the Scheduled Caste and Scheduled Tribes (Prevention of Atrocities) Act (hereinafter referred to as the 'Atrocities Act'). As the learned Additional Sessions Judge, Biloli has rejected Criminal Bail Application No.111/2023 by order dated 13.06.2023, present appeal is filed under Section 14-A of the Atrocities Act.

3. Learned counsel for the appellants submits that there are disputes between the parties and hence the possibility of false implication of the appellants cannot be ruled out. By referring to the First Information Report it is submitted that the alleged incident has occurred in the house of the informant and hence it is not in public view in order to attract Section 18 of the Atrocities Act.

4. Learned counsel for the informant opposed the said submissions by referring to the injuries caused to the informant and the witness in the said incident of assault. According to the learned counsel for the informant though the incident has occurred inside the house of the informant, however the same was witnessed by other persons and hence incident can be said to be in a public view.

5. There is no dispute about the fact that the incident in question has taken place in the house of the informant. Though the informant has claimed that the appellants have abused and insulted him over his caste, his statement recorded under Section 164 of the Cr.PC. does not support the said contention. Informant is silent in the said statement about he being abused over his caste. Apart from this, the statements of witnesses who were present at the spot of incident also do not support the allegations against the appellants which would attract the provisions of the Atrocities Act. Barring the offences punishable under the Atrocities Act, other offences are bailable in nature. The injury certificate shows that the informant and the witnesses suffered simple injuries. So far as the alleged recovery of

weapon is concerned, it can be taken care by directing appellants to remain present before the Investigating Agency and for the purpose of recovery, if any, they shall be deemed to be in custody of police.

6. In view of above, appeal deserves to be allowed. Hence, following order:

ORDER

(i) Appeal stands allowed except direction in the order dated 20.06.2023 about attending the concerned police station, which is modified as under:

(a) Appellants shall attend concerned police station once in a fortnight till filing of charge-sheet and for the purpose of recovery, if any, they shall be deemed to be in custody of police.

[R. M. JOSHI]
JUDGE

GGP