

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

**19 CRIMINAL APPEAL NO.680 OF 2022
WITH APEAL/676/2022**

**DIGAMBAR GOVINDRAO SANGALE AND ANOTHER
VERSUS
THE STATE OF MAHARASHTRA AND ANOTHER**

Mr. Ashish P. Deshmukh, Advocate for the appellants
Mr. P. M. Kulkarni, APP for the respondents/State
Mr. V. A. Bagul, Advocate for the respondent No.2

CORAM : KISHORE C. SANT, J.

DATE : 21st FEBRUARY, 2023

P. C.

1. Heard.

2. The Criminal Appeal No. 676/2022 is by Saraswati Wagh- accused No.4 whereas the Criminal Appeal No.680/2022 is by Digambar Sangale and Ganesh Sangale-accused Nos. 2 and 3.

3. Respondent No.2 lodged the FIR against the present appellants and one Pandurang 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(1)(s) and 3 (2)(va) of the Scheduled Castes and Scheduled Tribes (Prevention of

Atrocities) Act. It is alleged that on 27-07-2022 at around 12.30 pm when the informant had gone to the fair price shop, Pandurang-accused No.1 came there and abused the respondent in the name of caste. It is further alleged that thereafter, these accused persons also joined Pandurang and assaulted the informant and thereafter they have also abused the informant. On this apprehending the arrest the appellants filed a criminal bail application No. 283/2022 & 282/2022 in the court of learned Additional Sessions Judge, Hingoli. The learned Additional Sessions Judge by order dated 20-08-2022 was pleased to reject the applications. The appellants are therefore, before this court.

4. Heard the learned advocate for the appellants. He submits that in fact on 25-07-2022 accused No.1 Pandurang had registered one N. C. against the informant-respondent No.2 about the incident that took place on 25-07-2022. He submits that only a counter blast now the informant has lodged the information. Though the incident is alleged to have taken place on 27-07-2022, however, the FIR is lodged after 5-6 days thereafter. The only reason assigned for the delay is that the informant was taking treatment in the hospital till 01-08-2022. He submits that there is already a dispute between the parties. In the court of Additional Divisional Commissioner, Aurangabad he had filed a revision against these appellants. The said came to be rejected. Thus, the offence is registered only in view of the

property dispute between the parties. He submits that the allegations so far as giving abuses in the name of caste is only against Pandurang-accused No.1 and not against these appellants. Against these appellants the allegations is only that they had assaulted and the provisions of Atrocities Act could not be attracted and prays for bail in the event of their arrest.

5. Learned APP vehemently opposes the appeals stating that there are statements against the appellants. On going through the papers it does appear that there are allegations against these appellants. The statements are recorded on 04-08-2022. When there are allegations in the information, thus prima-facie appears that witnesses have input their version while giving statements before police.

6. Respondent No.2 opposed the appeals by filing affidavit-in-reply. He submits that all the appellants are members of group of assault the informant which clearly shows that even they are involved in the offence with the aid of Section 34. A case is made out against all the accused and prays for rejection of the appeal.

7. Having heard the parties, this court finds that a case is made out for allowing the appeals.

8. Learned APP submits that there is likelihood of

breach of case, if the appellants are released on bail in the event of their arrest. Therefore, he submits that some conditions are necessary. Hence, the following order:-

ORDER

- a] The criminal appeals stand allowed.

- b] The appellants be released on bail in the event of their arrest in connection with Crime No.237/2022, registered at Sengaon Police Station, Dist. Hingoli for the offences punishable under Sections 324, 323, 504, 506 read with Section 34 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 on furnishing PR bond of Rs. 15,000/- [Rupees Fifteen Thousand] each with one solvent surety in the like amount on the following conditions:-
 - i] The appellants shall not tamper with the prosecution evidence.

 - ii] The appellants shall attend the concerned police station as and when called by the Investigating Officer and shall co-operate in the investigation.

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ii] The appellants shall not pressurize the prosecution witnesses.

[KISHORE C. SANT, J.]

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