

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

CRIMINAL APPEAL NO.764 OF 2023

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| 1. Shrikant S/o. Yalappa Butte
2. Mangesh S/o Dhananjay Shelke | ...Appellants
[Original Accused] |
| Versus | |

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| 1. The State of Maharashtra
Through City Police Station,
Osmanabad, Dist. Osmanabad. | |
| 2. Rajendra Annasaheb Ovhal
3. Sidharth Rajendra Ovhal | ...Respondents |

**WITH
CRIMINAL APPEAL NO.768 OF 2023**

- | | |
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| Raj s/o. Sanjay Pawar | ...Appellant |
| Versus | |

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| 1. The State of Maharashtra
Through City Police Station,
Osmanabad, Dist. Osmanabad. | |
| 2. Rajabhau @ Rajendra Annasaheb Ovhal
3. Sidharth Rajendra Ovhal | ...Respondents |

Ms. Sheetal Salunke, Advocate for the appellants in Appeal No. 764/2023.

Mr. Sunil Jadhav h/f. Mr. A.S. More, Advocate for appellant in Appeal No. 768/2023.

Mr. V.S. Badakh, APP for State.

Ms. Sayali Tekale, Advocate, appointed for respondent No. 2.

Ms. Karishma Sarin, Advocate, appointed for respondent No. 3.

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CORAM : R.M. JOSHI, J
DATE : 3rd NOVEMBER, 2023

PER COURT :

1. Appellants apprehend arrest in connection with Crime No.

336/2022, registered with City Police Station, Osmanabad, for the offences punishable under sections 143, 147, 148, 149, 307, 324, 326, 323, 504, 506 and 427 of the Indian Penal Code and under sections 3(2)(v) and 3(1)(r)(s) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989.

2. First informant Rajendra reported the incident occurred on 10.11.2022. According to him, on trivial issue of parking the car, quarrel took place between him and accused persons. It is stated that thereafter said accused persons came along with others and the informant was assaulted with knife and iron rod. When the son of the informant intervened, he was also assaulted by them.

3. Learned counsels for the appellants submit that even if the statements made in the FIR are accepted as its, no offence punishable under section 307 of IPC can be said to be made out against the appellants. It is also pointed out that there is no allegation in the report about they being abused or insulted over the caste.

4. Learned appointed counsels for informant and victim and learned APP opposed the appeals contending that all the accused persons came together and as such they shared common intention while causing assault. It is also submitted that since the offence has been committed against the persons belonging to SC community, the offence punishable under Atrocities Act get attracted.

5. Perusal of FIR and even if statements made in the FIR are accepted to be true, it cannot be prima facie said that offence in question is committed for the reason that informant belongs to SC community. Thus prima facie, offence of Atrocities Act, does not get attracted, hence, bar of Section 18 of the said Act is not attracted to the present case.

6. With regard to the present appellants there is no allegation against them that they used any weapon for causing assault on the informant and his son. Though, in the supplementary statement it is stated that the present appellants are also involved in the assault and assaulted the informant with fists and kick blows, the injuries caused by weapons are not attributed to them.

7. Learned counsel for the victim in Appeal No. 768/2023 contends that the appellant has criminal antecedents and there is every likelihood of pressurizing the witnesses etc.

8. This Court finds that this cannot become a ground for rejection of anticipatory bail more particularly having regard to the role alleged against him in this crime.

9. Learned counsels for the appellants on instructions submits that in view of the issue raised by the learned counsel for victim about pressuring of witnesses by the appellants, they make a statement that

appellants will not enter in the residential area where the informant and victim are residing and will not contact informant or witnesses in any manner whatsoever. The statement of learned counsels for the appellants is accepted as undertaking to this Court.

10. Appeals are therefore allowed in terms of order dated 30.08.2023.

11. Fees of learned counsels appointed to represent respondent No. 2 and 3 is quantified at Rs. 6,000-/ each, to be paid by High Court Legal Services (Sub Committee), Aurangabad within four weeks from the date of receipt of this order.

[R.M. JOSHI, J.]