

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

917 CRIMINAL APPEAL NO.757 OF 2022

**GANGARAM DASHRATH KARALE AND OTHERS
VERSUS
THE STATE OF MAHARASHTRA AND ANOTHER**

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Advocate for Appellants : Mr. Salunke Sudarshan J
APP for Respondent 1 : Mr. Y G Gujrathi
Advocate for Respondent 2 : Mr. M.B. Sandanshiv

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CORAM : KISHORE C. SANT, J.
Dated : January 31, 2023

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PER COURT :-

1. Leave to correct the names of the appellants in the title clause. Corrections be carried out forthwith.
2. Heard learned advocates for the respective parties.
3. This is an appeal seeking bail in the event of arrest in connection with the FIR No.0220 of 2022 dated 19.9.2022 lodged with Aurangabad Rural Police Station, Aurangabad for the offences punishable under sections 143, 147, 149, 504, 506, 427 of the IPC and r/w section 3(1)(r), 3(1)(s), 3(2)(va) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989.

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4. It is the case of the appellants that they are residents of Taklisagaj. In the General Meeting of the Grampanchayat dated 30.8.2022, it was resolved that the road from Takalisagaj till village Bhagur be repaired and constructed as it is causing inconvenience for the school children while going to school specially in the rainy season. Pursuant to the same, said resolution was send to the Tahsildar. The Tahsildar, Vaijapur also directed the S.D.O., by letter dated 15.9.2022 to remain present while the encroachments are being removed alongwith the trees those are standing on the road. It is for this work the appellants were present near the land of respondent no.2. The respondent no.2, however, obstructed the work and, therefore, there was a dispute. These appellants tried to convince the informant that the trees those are standing on the road by the side of his land are causing obstruction to school going children. However, because of that, information came to be lodged by the respondent no.2. It is the case of the appellants that the alleged incident took place on 8.9.2022, whereas the information is lodged on 19.9.2022. It is submitted that, in fact, no any such incident had taken place and there was no question of giving abuses in the name of caste. Appellants are

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falsely implicated. While looking at the FIR, it is seen that the informant has reported to the police station that on 8.9.2022 at around 10.30 to 11.00 am all these persons gathered near his land and started removing the trees. While asking as to why they are causing damage to the property, all these persons abused the informant in the name of caste.

5. The learned APP and learned Advocate for respondent no.2 opposed the appeal. The learned APP produced on record the statements recorded by the police during the course of the investigation. From the statements of one Yedu Sukhdev Jagtap, it appears that there is allegations against Gangaram Karale and Ramesh Dharbale that they abused in the name of caste. From the state of Rahul Kadu Jagtap it is seen that other two appellants namely Santosh Karale and Amol Dharbale have also abused in the name of caste. Thus, it is seen that, at least against four appellants there are allegations having abused the informant in the name of caste.

6. Learned Advocate for the informant submits that when the Grampanchayat had passed a resolution and when the Tahsildar had directed the Circle Officer to be present while

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removing the trees from the road near the land of the informant, it was for those authorities to remove the trees. There was no question of these appellants to do the said work on their own. He submits that, this clearly shows the intention on the part of the appellants and, therefore, they personally remained present at the spot. He submits that, as a matter of fact, all the appellants have in fact abused the informant and prays for rejection of the appeal.

7. At this stage, learned advocate for the appellants placed reliance on a judgment reported in **2023 ALL MR (Cri) 271 in the case of Balkrushna s/o Uttamrao Mule and ors. Vs. Vs. The State of Maharashtra and another.** He submits that, though there is allegations that all persons abused the informant, however, the same is not possible. He relies upon paragraph no.13 from the judgment to submit that all the persons cannot be said to have uttered words in the name of caste in chorus and in one go. In this case, it thus appears that there is allegation in the FIR that all the persons together have abused the informant. However, looking at the statement of Yedu Sukhdev Jagtap and Rahul Kadu Jagtap, it appears that it is

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not the case of the prosecution that all the persons have abused in chorus. Thus, this Court holds that the judgment relied upon by the learned advocate for the appellants is not applicable to the present case.

8. Considering the police papers, the FIR and other material, it is seen that so far as the appellant nos.1,2,7 and 8 there are specific allegations. This Court, therefore, finds that no case is made out to call for interference in the order passed by the Additional Sessions Judge, Vaijapur to the extent of these appellants. However, no specific allegations are found to the extent of appellant nos.3 to 6 and 9. Therefore, this Court finds that appellant nos.3, 4, 5, 6 and 9 are entitled to be released on bail. Hence, following order.

O R D E R

- i. Criminal appeal to the extent of appellant nos.1- Gangaram s/o Dashrath Karale, 2- Santosh s/o Vitthal Karale, 7- Ramesh s/o Machindra Dharbale and 8- Amol s/o Ramesh Dharbale stands rejected.
- ii. The appeal to the extent of appellant nos.3- Rameshwar s/o Gangaram Karale, 4- Dnyaneshwar s/o Gangraam Karale, 5- Dattu

Anna Karale, 6-Subhash s/o Machindra Dharbale and 9-Shankar s/o Uttam Dharbale stands allowed.

- iii. The appellant nos.3 to 6 and 9 shall be released on bail in the event of their arrest in connection with FIR no.220 of 2022 dated 19.9.2022 registered with Aurangabad Rural Police Station, Aurangabad for the offence punishable under sections 143, 147, 149, 504, 506, 427 of the IPC and under section 3(1)(r), 3(1)(s) 3(2) (va) of the Scheduled Castes and Scheduled Tribes, (Prevention of Atrocities) Act, 1989 on furnishing PR Bond and solvent sureties in the sum of Rs.15,000 (Rs. Fifteen Thousand), each.
- iv. Since the charge-sheet is already filed, the appellants shall attend the concerned police station as and when called by the Investigating officer.
- v. The appellants shall not try to contact any of the witnesses and tamper the evidence till crime is over.
- vi. Criminal appeal stands disposed off.

(KISHORE C. SANT, J.)

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