

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPEAL NO. 903 OF 2023

1. Yogesh s/o Baburao Jadhav
 2. Gajanan s/o Devidas Jadhav
 3. Datta s/o Hanmantrao Jadhav
 4. Nagesh s/o Sudhakar Jadhav
 5. Angad s/o Baburao Hate
- Appellants

Versus

The State of Maharashtra & another

Respondents

Mr. A. M. Gaikwad, Advocate for the appellants.
Mr. S. P. Sonpawale, APP for the State.
Mr. N. N. Bhagwat, Advocate (appointed) for respondent No. 2.

CORAM : R. M. JOSHI, J.
DATE : 27th OCTOBER, 2023.

PER COURT :

1. This appeal is for regular bail being aggrieved by the rejection of bail application filed under Section 439 of Code of Criminal Procedure by order dated 16th September, 2023 passed by learned Additional Sessions Judge, Kandhar, Dist. Nanded.

2. Learned counsel for the appellants submits that the offence attributed to the present appellants is under Section 323 of

the Indian Penal Code which is bailable one. There is no allegation against them that any weapon is used in the said assault. He, therefore, seeks release of appellants.

3. Learned APP and learned counsel for the informant opposed the appeal on the ground that offences punishable under Scheduled Caste and Scheduled Tribes (Prevention of Atrocities) Act are made out against the appellants and some injuries are also seen to have been caused in the said incident.

4. Even if it is accepted that some injuries are caused, they are simple in nature. In view of this, offence against the appellants could not travel beyond Section 323 of Indian Penal Code. In view of this, there is no propriety in keeping the appellants behind bar. There are no criminal antecedents against them. Hence, the following order :-

ORDER

(i) Appeal is allowed.

(ii) Appellants be released on bail in connection with Crime No. 0128/2023, registered with Osmannagar

Police Station, Dist. Nanded, for the offences punishable under Sections 323, 504, 506, 143, 147, 149 read with Section 34 of the Indian Penal Code and under Sections 3(1)(r), 3(1)(s), 3(2)(va) of the Scheduled Caste and Scheduled Tribes (Prevention of Atrocities) Act, on furnishing PB and SB of Rs. 30,000/- (Rs. Thirty Thousand only) each with one or two sureties each in the like amount.

(iii) They shall attend the concerned police station once in a week.

(iv) They shall not contact the witnesses directly or indirectly.

(v) They shall not interfere with the evidence in any manner whatsoever.

(vi) They are further directed to cooperate the investigating agency for further investigation.

(vii) Fees of the appointed counsel is quantified at Rs.6,000/-.

(R. M. JOSHI)
Judge