

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

902 CRIMINAL APPEAL NO.917 OF 2022

**SHAILESH RAMU RAJPUT AND OTHERS
VERSUS
THE STATE OF MAHARASHTRA AND ANOTHER**

Mr. Nilesh S. Ghanekar, Advocate for the appellant
Mr. P. B. Waghmare, Advocate for respondent No.2
Mr. P. M. Kulkarni, APP for the respondents/State

CORAM : KISHORE C. SANT, J.

DATE : 14th FEBRUARY, 2023

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1. Heard the learned advocate for the parties.
2. This is an appeal seeking bail in the event of arrest of the appellants in connection with Crime No.0390/2022 registered at Mukundwadi Police Station, Dist. Aurangabad on 10-11-2022 for the offences punishable under Sections 452, 324, 323, 504, 506 read with Section 34 of the Indian Penal Code and Sections 3(1)(r) and 3(1)(s) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act.
2. The appellants had approached the learned Sessions Judge seeking bail in the event of their arrest. However, same is rejected and thus they are before this court by way of this

appeal.

3. FIR came to be lodged by respondent No. 2 with the allegations that on 10-11-2022 the complainant was sprinkling water on his construction site at that time some water sprinkled on the car belonging to the appellants on that a quarrel started. In the incident appellant Nos. 1 and 2 abused the informant in the name of his caste. So far as appellant No.3 is concerned the allegation is that appellant No.3 has assaulted and general allegation is made that she has also abused in the name of caste without specification.

4. It is the submission of the learned advocate for the appellants that the FIR lodged by respondent No.2 is only counter blast to the FIR lodged by appellant No.3 in respect of same incident. Her FIR was registered at 22.23 on 10-11-2022. Only after coming to know that FIR is lodged by the appellant No.3, the informant-respondent No.2 has lodged the FIR which clearly shows that no any incident has taken place as alleged by the informant. He submits that there is CCTV footage collected by the Investigating Officer which would clearly show that there are no abuses given by the appellants. About the assault he submits that in fact there is no such assault on the informant or his father. Therefore, the learned advocate for the appellants submits that the appeal deserves to be allowed and the appellants be protected.

5. Learned APP opposes the appeal by submitting that offence is clearly made out in the FIR. There are abuses in the name of caste given by appellant Nos. 1 and 2. He submits that even from the statement of the informant under Section 164 it is clear that offence under the Atrocities Act is made out. He submits that there is also a medical certificate dated 10-11-2022 showing that father of the informant received some injuries. Injuries are received to wrist of right hand & left chest on the father of the informant.

6. Learned advocate for respondent No.2 vehemently opposes the appeal pointing out that the father of the informant has received injuries. Both the parties know the caste of each other since they are residing in the same area and in front of each other. CCTV footage cannot be considered for the purpose of grant of bail. There is bar in view of section 18 of the Atrocities Act. He submits that in fact he immediately approached the police. However, the police directed to take his father to hospital first and to bring the injury certificate and during that period appellant No.3 lodged the FIR. He further submits that the informant is a Lawyer by profession and there is no question of implicating someone falsely in the crime.

7. Having considered the FIR, police papers prima facie case is made out against appellant Nos.1 and 2. In view of bar

under Section 18 of the Atrocities Act and considering the judgment in the case of *Vilas Pandurang Pawar and another Vs State of Maharashtra and Ors. reported in (2012) 8 SCC 795 and Prathvi Raj Chauhan Vs Union of India and others reported in (2020) 4 SCC 727*. This court finds that there is clearly bar attracted in the case of appellant Nos. 1 and 2. So far as appellant No.3 is concerned there is no allegation that she has abused in the name of caste. Considering the other sections it is clear that case is made out to release appellant No.3 on bail in the event of her arrest. Hence, the following order:-

ORDER

- i] The criminal appeal stands partly allowed.
- ii] The criminal appeal to the extent of appellant Nos. 1 and 2 stands rejected.
- iii] The criminal appeal to the extent of appellant No.3 is allowed.
- iv] Appellant No. 3 be released on bail in the event of her arrest in connection with Crime No. 0390/2022 registered at Mukundwadi Police Station, Dist. Aurangabad on 10-11-2022 for the offences punishable under Sections 452, 324, 323, 504, 506 read with Section 34 of the Indian Penal Code and

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Sections 3(1)(r) and 3(1)(s) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, on furnishing PR bond of Rs.15,000/- with one solvent surety in the like amount on the following condition:-

a] The appellant No.3 shall attend the police station as and when called by the Investigating Officer and co-operate in the investigation.

b] The appellant No.3 shall not tamper with the evidence.

c] The appellant No.3 shall not try to contact the prosecution witnesses and shall not pressurize the prosecution witnesses.

[KISHORE C. SANT, J.]

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