

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

CRIMINAL APPEAL NO.1020 OF 2023

1. Abhilash S/O Kanhyala Jaiswal,
2. Sainath S/O Gurudas Ghosalwad
3. Ganesh S/O Sanjay Ghosalwad
4. Ananda S/O Laxman Ghosalwad
5. Rakesh S/O Gurudas Ghosalwad
6. Rupesh S/O Laxman Ghosalwad
7. Vilesh S/O Kanhaiyalal Jaiswal
8. Kanhaiyalal S/O Vitthallal Jaiswal
9. Sanjay S/O Ramlu Ghosalwad

... APPLICANTS

VERSUS

1. The State of Maharashtra,
Through Himayatnagar Police Station,
- 2 Rajendra S/o Prakash Kadam

... RESPONDENTS

Mr. A. P. Deshmukh, Advocate for the appellants
Mr. G. O. Wattamwar, APP for the respondent/State
Mr. M. M. Parghane, Advocate for respondent No.2.

CORAM : R. M. JOSHI, J.

DATE : 8th NOVEMBER , 2023

P.C. :-

1. Mr. Parghane, learned counsel states that he has instructions to appear on behalf of respondent No.2. Appearance of learned counsel Ms. P. K. Apache stands discharged.

2. This appeal being aggrieved by the rejection of regular bail by the Addl. Sessions Judge in Criminal Bail 149/2023 present appeal is filed under Section 14A of Scheduled Castes and Scheduled Tribes (Prevention

of Atrocities) Act (for short 'Atrocities Act').

3. The informant has reported the incident occurred on 02/10/2023. According to him in the said incident occurred at 8.00 am it was abused and assaulted by the appellants. Allegations are made in the report of causing assault on the head of the informant as well as witness. There is also allegation of snatching the gold ring etc.

4. Learned counsel for the appellants submits that investigation in to the crime is practically over. It is his submission that the offence alleged against the appellants is under Section 324 of IPC and as such at this stage their further custody is not necessary. It is claimed that the appellants arrested on 04/10/2023 and that they are entitled for bail.

5. Learned counsel for the informant as well as the learned APP opposed the appeal. They placed reliance on the observation made by the learned Addl. Sessions Judge in the impugned order where it is observed that the injuries caused to the injured are grievous in nature. Thus, according to them, this could be a case of offence punishable under Section 326 of IPC and this is not a fit case for grant of bail.

6. The incident is dated 02/10/2023. Till date there is nothing on record to indicate that offence under Section 326 of IPC be added at the instance of Investigating Agency. The observations made is by Addl.

Sessions Judge are based on the photographs. It is for a Medical Officer to give opinion as well as grievous nature injury and the same cannot be determined on the perusal of photographs. Record indicates that practically investigation in crime is over. Hence, there is no propriety in keeping them behind bar. Hence the following order:

ORDER

- (i) Appeal is allowed.
- (ii) The appellants be released on bail in connection with Crime No.200/2023 of 2023 registered with Himayatnagar Police Station, Dist. Nanded for the offences punishable under Sections 143, 147, 148, 149, 324, 323, 506, 327 of I.P.C. and Section 3(1)(r) & 3(1)(s) of The Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 And section 135 of Maharashtra Police Act, on furnishing PR Bond of Rs.15,000/- (Rs. Fifteen Thousand only) each with one surety in the like amount.
- (iii) They shall attend the concerned police station once in a month for period of 6 months from today.
- (iv) He shall not contact the witnesses directly or indirectly.
- (v) He shall not interfere with the evidence in any manner whatsoever.
- (vi) Bail before the Trial Court.

(R. M. JOSHI, J.)

ssp