

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

APPEAL NO. 53 OF 2023

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ONKAR SHARAD MAHARNUR & ORS. ..APPELLANTS
VS.
THE STATE OF MAHARASHTRA & ANR. ..RESPONDENTS

Adv. R.S. Chaudhari for the Appellants.
Adv. Akil K. i/b Adv. Samadhan Kashid for Respondent No.2.
Mr. Y. M. Nakhwa, APP for the State.
Mr. Pradip Shivaji Mali, Jath Police Station.

CORAM : M. S. KARNIK, J.

DATE : AUGUST 11, 2023.

P.C. :

- 1.** Heard learned counsel for the appellants, learned counsel for Respondent No.2 and learned APP for the State.
- 2.** This is an application for pre-arrest bail in respect of C.R. No. 730 of 2022 registered with Jat Police Station, Sangli, on 19/12/2022 under Sections 324, 323, 504, 506, 143, 147, 149 of the Indian Penal Code (IPC) and under Section 3(1)(r), 3(1)(s), 3(2)(va) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 (for short "Atrocities Act") and under Section 135 of the Maharashtra Police Act.
- 3.** The First Information Report (FIR) is lodged by

respondent No.2. A panchayat election in Kosami Village was held on 18/12/2022. Respondent No.2 supplied tea and snacks to the Revenue and Police Officers who were supervising the election. It is alleged that the appellants i.e. original accused Nos. 4 to 7 and other accused were under the impression that respondent No.2 was helping the rival political party in the election and therefore, they were angry. The appellants and other accused on 18/12/2022 at about 8 p.m. abused respondent No.2 with reference to his caste and assaulted him.

4. Learned APP and learned counsel for respondent No.2 argued in support of the impugned order. Learned counsel for respondent No.2 submitted that the allegations in the FIR constituting the offence, under the provisions of the Atrocities Act for which the appellants are under prosecution, is clearly made out. It is submitted that there are accusations in the FIR that the appellants abused respondent No.2 with reference to his case. It is further submitted that in the present case, the bar under Section 8 of the Atrocities Act will operate apart from the presumption as to the offence which is spelt out under Section 8 of the Atrocities Act. It is further submitted that the incident

happened in full public view.

5. Having gone through the FIR, it appears that the appellants confronted respondent No.2 on account of some political rivalry. The main accused Mahadev Shamrao Mharnur and two others who abused respondent No.2 with reference to his caste were arrested and released on regular bail. There is no role assigned to the appellants that they have abused the respondent No.2 with reference to his caste. So far as the present appellants are concerned, they are alleged to have accompanied the main accused. In my opinion, in the facts of the present case, the bar under Section 18 of the Atrocities Act will not be attracted.

6. Learned APP on instructions submitted that the charge sheet has been filed and the investigation is complete. The appellants to cooperate with the investigation.

7. The appeal is, therefore, allowed. The impugned order is set aside.

8. The interim order passed by this Court on 23/01/2023 is hereby confirmed.

9. The appeal is disposed of in the above terms.

(M. S. KARNIK, J.)