



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

CRIMINAL APPEAL NO.639 OF 2023

Sudhir Prakash Phadatare ..Appellant
VS.
The State of Maharashtra and anr. ..Respondents

Adv. Kuldeep S. Patil a/w Adv. Ranjeet Patil a/w Adv.
Narayan Awate for the Appellant.
Adv. Megha Bajoria for Respondent No.2.
Mr. Y. M. Nakhwa, APP for the State.

CORAM : M. S. KARNIK, J.

DATE : AUGUST 18, 2023

P.C. :

- 1.** Heard learned counsel for the appellant and learned counsel for respondent No.2 – Ms. Megha Bajoria appointed by this Court and learned APP for the State.
- 2.** This Court on 12/06/2023, while granting the interim protection to the appellant, has passed the following order:

"1. Issue notice to Respondent no2 returnable on 19" July 2023.

2. Applicant is apprehending arrest in connection with C.R No.78 of 2023 registered with Chinchni Wangi Police Station, Tal.Kedgaon, District Sangli, for offences u/s. 143,147,148,149,323,324,504 of Indian Penal Code and Sections 3(1)(r), 3(1)(s), 3(2) (va) of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act.

3. The FIR was recorded on 22nd May 2023 at about 22.28 pm whereas incident had occurred on 20th May 2023 at about 11.30 a.m. Apparently prior to registration of aforesaid FIR a complaint was lodged with same police station at the instance of one of the accused who had suffered grievous injuries and the FIR was registered u/s.307 of IPC. As a counter blast to the said FIR, present FIR has been registered after two days from the date of incident. Prima facie it also appears that there are no independent persons to corroborate the version of complainant about hurling alleged abuses on caste.
4. Considering the aforesaid circumstances, interim protection can be granted to appellant."

3. I have perused the First Information Report (FIR) with the assistance of the learned counsel appearing on behalf of respective parties and learned APP for the State. Learned APP and learned counsel for respondent No.2 invited my attention to the specific accusations against the present appellant.

4. The incident is narrated in the FIR in two parts. In the first part, it is alleged that the appellant and the other accused abused respondent No.2 on caste when all of them had gathered to participate in the bullock cart race. It is alleged that respondent No.2 was assaulted with fists and blows. So far as the second part of the incident is concerned which happened after some time, it is alleged that the

appellant tried to assault respondent No.2 with a sword. Two of the witnesses namely Pravin and Sanket who were accompanying respondent No.2 are injured and the injury suffered by them as per the medical certificate is shown to be simple in nature by hard and blunt object. Though the incident is alleged to have occurred on 20/05/2023 at about 11.30 hours, the FIR was registered on 22/05/2023 at about 22.28 hours. Thus, there is delay in lodging of FIR.

5. It is pertinent to note that prior to the registration of the present FIR, on record is FIR registered by Suresh Yadav i.e. one of the accused in the instant FIR. In the said FIR of Suresh Yadav, it is alleged that Suresh Yadav was assaulted by those who are the witnesses in the present FIR. It appears that the witnesses are interested witnesses. There are no independent witnesses to corroborate the version of respondent No.2 as regards accusations of abuse in the name of caste.

6. Considering the nature of the injuries and taking an overall view of the matter, the present appeal can be allowed by confirming the interim order dated 12/06/2023

passed by this Court.

7. The interim order dated 12/06/2023 is hereby confirmed. The appellant shall report to the Investigating Officer as and when called and cooperate with the investigation.

8. The Appeal is allowed. The impugned order is set aside.

9. I appreciate the assistance rendered by Ms. Megha Bajoria who appeared on behalf of respondent No.2 in these proceedings.

(M. S. KARNIK, J.)