

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

CRIMINAL APPEAL NO.976 OF 2022

Janardan Tukaram Bhoys Appellant
Vs.
The State of Maharashtra & Anr. Respondents

Ms. N. S. Bobade i/b Mr. M. J. Bhatt for the Appellant.
Mr. S. S. Pednekar, APP for Respondent-State.
Mrs. Sonia Miskin appointed for Respondent No.2.

***CORAM : REVATI MOHITE DERE &
SHARMILA U. DESHMUKH, JJ.***

DATE : 28 APRIL 2023.

ORDER: (*Per Sharmila U. Deshmukh, J.*)

1. By this appeal filed under section 14A of Scheduled Caste and Scheduled Tribe (Prevention of Atrocities) Act, 1989 (for short, SC/ST Act), the appellant seeks pre-arrest bail in connection with C. R. No.I-96/2022 registered with Kalyan Taluka Police Station, Thane for offences punishable under Section 307, 323, 504 and 427 of IPC and sections 3(1)(r) (s) and 3(2) (va) of the SC/ST Act.

2. Heard Ms. N. S. Bobade, learned counsel for the

Appellant, Mr. S. S. Pednekar, APP for Respondent-State and Mrs. Sonia Miskin, appointed advocate for Respondent No.2.

3. Learned counsel for the appellant submits that the appellant seeks bail on the ground of parity. She submits that co-accused -Vasant Damu Bhoy, who has been granted pre-arrest bail by this Court has been attributed the same role as that of appellant. She would further submit that even on merits, the appellant is entitled for bail. She would submit that the first informant belongs to other backward class category and as such offences under the SC/ST Act are not made out. She further submits that the appellant is a senior citizen.

4. Learned appointed counsel for Respondent No.2 submits that perusal of the medical report indicates that it is not a simply injury. She further submits that the appellant has been threatening the first informant. Learned APP opposed the application.

5. The incident in question is alleged to have taken place

on 24/2/2022. It is alleged that on the said day, first informant had gone to his land for the purpose of "*bhoomi pujan*" where the appellant came and staked his claim to the land. As such, there was quarrel between the first informant and the appellant; that the appellant called co-accused Vasant Bhoy, Pramod Bhoy and Lokesh Jadhav and the Appellant's two sons; that the appellant and Vasant assaulted the first informant with wooden stick on his head. It is further alleged that the appellant abused him on his caste.

6. This Court, while considering the application of pre-arrest bail of the co-accused Vasant Bhoy has recorded that the investigation carried out clearly indicates that the first informant was not belonging either to Scheduled Caste or Scheduled Tribe and as such the contention of learned counsel for the applicant that provisions of SC/ST are not applicable *prima facie* has substance. *Vide* order dated 26/9/2022, this Court in Criminal Appeal No.766/2022 filed by Vasant Bhoy has granted pre-arrest bail to Vasant Bhoy. The role which is attributed to the present appellant is similar to that of Vasant Bhoy.

7. Considering the injury stated in the Medical certificate and that the co-accused who has been attributed an act similar to that of appellant has been granted pre-arrest bail, we are inclined to allow the appeal.

8. Hence the impugned order dated 6/9/2022 passed by learned Additional Sessions Judge, Kalyan in ABA No.1257/2022 is quashed and set aside and the appellant is granted pre-arrest bail on following terms and conditions:

ORDER

- i) In the event of the arrest, the appellant be enlarged on bail on furnishing P. R. Bond in the sum of Rs.15,000/-, with one or two sureties in the like amount;
- ii) The appellant shall not contact or pressurize the witnesses.

9. Appeal is allowed in above terms.

10. All concerned to act on the authenticated copy of this order.

SHARMILA U. DESHMUKH, J. REVATI MOHITE DERE, J.