

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

CRIMINAL APPEAL NO. 1066 OF 2023

1. Pooja @ Aafrin Niyaj Sayyad
2. Omkar Santosh Jogdand ...Appellants

vs.

1. State of Maharashtra
2. Sadanand Vaman Bansode ...Respondents

Mr.Pranav H. Bhoite - Advocate for the Appellants.
Mr.H.J.Dedhia - APP for Respondent No.1 - State.
Mr.M.K.Abnave - PSI - Daund Police Station - Pune (Rural).

CORAM : S. M. MODAK, J.
DATE : 11th DECEMBER 2023

P. C. :-

1. Heard learned Advocate for the Appellants and learned APP. The Officer from Daund Police Station is present.
2. It is true that the Additional Sessions Judge - Baramati has rejected the Anticipatory Bail Application. The offences are under Sections 324, 323, 504, 506 read with 34 of Indian Penal Code, 1860 ["IPC"] and under Sections 3(1)(r), 3(2)(va) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 ("SC & ST Act"). J
3. The First-Informant - Sadanand Bansode runs an Aadhar card centre. The Appellant No.1 - Pooja was in need of Aadhar

card. On 30th May, 2023, the Appellant – Pooja called the First-Informant and expressed desire to have a notification in English for the purpose of Aadhar card. The Appellant and her husband – Niyaj went to the Office of the First-Informant. Niyaj was possessing a belt. He inquired who is Sadanand Bansode i.e. the First-Informant. Both of them abused him and Niyaj beat him with the help of belt. Afterwards, the present Appellant – Pooja also called his brother who is Appellant No.2. He was also possessing a belt. All of them threatened them of a dire consequences. They have also torn the documents. On this basis, the FIR is registered with Daund Police Station on 30th May, 2023.

4. During investigation, when the Police have seen the C.C.T.V., footages, they found that the chain of the First-Informant has fallen down in the scuffle and it was picked up by Niyaj who is not Appellant herein. Accordingly, they have added Section 327 of IPC and also recorded supplementary statement of the First-Informant on 5th June, 2023. The trial Court has recorded these facts in Para No.6 of the interim order.

5. During hearing of this Appeal, it was pointed out that the Appellant – Pooja is a member of scheduled caste community. The Investigating Officer has verified this fact from the

Tahasildar - Daund and have found it to be correct. The report given by the Tahsildar dated 8th December, 2023 along with copy of caste certificate of the Appellant - Pooja is placed on record on behalf of the Prosecution. It is marked as Annexure-X. If it is so, then the provisions of SC & ST Act cannot be invoked against both the Appellants.

6. Now, the Investigating Officer has to file necessary report to the concerned Court. Still, learned APP submitted that the provisions of this Act can certainly be invoked against Niyaj who is not the Appellant herein. During investigation, it was submitted that the belt is also recovered. Considering the role assigned to these Appellants, I think they can be granted protection from arrest.

7. They are having different version about the incident. In fact, Pooja has also lodged a written complaint with the same Police Station against the First-Informant, however, no acknowledgment was given because the sister of the First-Informant is working as a constable in the same Police Station. This contention is not substantiated by annexing copy of the complaint.

8. All these materials were not before the Sessions Judge when he rejected the anticipatory bail.

9. In view of that, following order :-

O R D E R

- (i) In case of an arrest, the Appellants viz., (i) Pooja @ Aafrin Niyaj Sayyad and (ii) Omkar Santosh Jogdand be released in connection with C.R. No. 460 of 2023 registered with Daund Police Station - District : Pune on furnishing personal bond and surety bond of Rs.15,000/- each.
 - (ii) The order dated 26th June, 2023 passed by the learned Additional Sessions Judge - Baramati is set aside.
 - (iii) They are directed to give attendance to Daund Police Station - District : Pune on second and fourth Friday from 10.00 to 12.00 noon for two months.
 - (iv) Appellants not to threaten the Prosecution witnesses or to allure them in any manner.
10. In view of the above, Appeal is disposed of.

[S. M. MODAK, J.]