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

CRIMINAL APPEAL NO.1221 OF 2023

- | | | |
|----|-------------------------------------|----------------|
| 1. | Bramhanand Dnyanoba Dhekale | |
| 2. | Pranav @ Tanishk Bramhanand Dhekale | ...Appellants |
| | vs. | |
| 1. | The State of Maharashtra | |
| 2. | Mahendra Dashrath Waghmare | ...Respondents |

Mr. Viresh Purwant a/w Mr. Rishikesh Kale, Advocate for the Appellants.
Mr. S.R. Agarkar, APP for Respondent – State.
Mr. Rajendra Rathod, PSI, Mohol Police Station, Solapur present.

CORAM : S. M. MODAK, J.
DATE : 20th DECEMBER 2023

P. C. :-

1. Heard learned Advocate Shri Purwant for the Appellant and learned APP. The officer of concerned Police Station is present.
2. Even though on 7th December 2023, learned Advocate for Respondent No.2 has undertaken to file vakalatnama till today it is not filed. Ultimately, it is the choice of the first informant. If the vakalatnama is not filed the Court has no alternative but to proceed the matter.
3. In the order dated 8th November 2023 learned APP was asked to take instructions whether the custody of the Appellant is required when charge sheet is already filed. Today, after taking instructions it is submitted that custody is not required.
4. Injured Dadasaheb Nagane runs Pratik Industry at Mohol. The

Appellants runs Dhekale Organic Pvt. Ltd. Factory. There was damage to the colour of the factory of said Dadasaheb due to ash coming from the factory of the Appellants. Witnesses protested.

5. Incident took place on 5th February 2023 at 9.15 pm in the factory premises of said Nagane. The Appellants assaulted first informant and Mahesh Bhosale with iron rod. Witness Mahendra Waghmare came on the spot and Appellants abused him on account of caste. The offence is registered with Mohol Police Station at C.R. No.120 of 2023 under sections 324, 323, 504 and 506 r/w 34 of IPC and under section 3(1)(r), 3(1)(s), 3(2)(va) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989.

6. Whereas, there is counter version. Present Appellant Brahmanand and others were assaulted by the first informant Mahendra and others on the same date and time. There is an offence registered at C.R. No.121 of 2023 under sections 307, 327, 324, 452, 506, 506, 143, 147, 148 and 149 of IPC at Mohol Police Station.

7. It is true that the Appellants abused first informant on account of caste and also threatened him. But the fact that the investigation is complete and Police are not in need of his custody. Whereas, the Appellants contended that the Appellant – Bramhanand Dhekale has lodged complaint at Mohol Police Station on 6th February 2023 against the first informant - Mahendra Waghmare and others. So, if there are

counter versions, the allegations about caste abuses are doubted.

8. The Special Judge, Solapur while rejecting the application on 5th October 2023 has observed that even though the Appellants have co-operated and the charge-sheet is filed, the Court has also noted that the weapons are also recovered. In spite of these observations, on the basis of the statement of witness the trial Court has rejected the bail application. It is not proper appreciation. The case for anticipatory bail is made out. The theory of Mahendra Waghmare cannot be believed totally. Hence, bar under section 18 of the SC and ST Act, 1989. Hence, the order:-

ORDER

- (i) Appeal is allowed.
- (ii) Order dated 5th October 2023 passed by the learned Special Judge, Solapur in Criminal Bail Application No.924 of 2023 is set aside.
- (iii) In case of arrest in Crime No.120 of 2023 for the offences punishable under sections 323, 324, 504 and 506 r/w 34 of IPC and under sections 3(1)(r), 3(1)(s) and 3(2)(va) of the SC and ST Act, 1989, the Appellant No.1 - **Bramhanand Dnyanoba Dhekale** and Appellant No.2 - **Pranav @ Tanishk Bramhanand Dhekale**, be released on furnishing P.B. and S.B. of Rs.15,000/- each.
- (iv) Appeal is disposed of.

9. These are my prima facie observations. Let the learned trial Court need not be influenced by them.

[S. M. MODAK, J.]