



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPEAL NO. 44 OF 2024

Yuvraj Nanasaheb Galande

....Appellant

VERSUS

The State Of Maharashtra And Others

....Respondent

WITH

CRIMINAL APPEAL NO. 43 OF 2024

1. Durgesh Babasaheb Vaidya

2. Raju Mohan Borge

.....Petitioner

VERSUS

The State Of Maharashtra And Others

.....Respondent

....

Mr. R. R. Karpe, Advocate for Appellant

Mr. D. B. Bhanage, APP for Respondents

Mr. Y. H. Lagad, Advocate for victim

Mr. S. G. Sonawane, Advocate for informant

...

CORAM : R.M. JOSHI, J

DATE : JANUARY 29, 2024

COMMON ORDER :

1. These Successive appeals are filed against order of rejection of regular bail by the Special Court in connection with C.R. No. 429 of 2023 registered with Shrirampur Taluka Police Station, Dist. Ahmednagar for the offences punishable under Sections 307, 364, 342,

504, 506, 147, 148, 149 of Indian Penal Code and Sections 3(1)(a), 3(1)(d), 3(2)(va), 3(1)(r), 3(1)(s) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act. Now admittedly charge-sheet has been filed and there is change in circumstance to entertain Appeals.

2. First informant Shubham reported incident occurred on 25.08.2023. It is claimed that on that day at 05.00 pm he was forcibly taken to house of one of the accused persons. He further states about other victim being brought to the spot. There is allegation that accused assaulted them with wire. They made them to lick spitting over the shoes. There is also allegation that the one of the accused urinated on his person and abused him over the caste.

3. Learned Counsel for the Appellants submit that now charge-sheet has been filed and having regard to the facts and circumstances of the case, *prima facie* the offence is not made out against them. It is his submission that there is no allegation against the accused of using any deadly weapon or causing any assault on the vital part of the body indicating their

intention which according to him lacks intention to kill and thereby offence under Section 307 of IPC does not get attracted. It is his further submission that after filing of the charge-sheet offence under Section 364 of IPC cannot become ground for rejection of bail. As far as allegation against the accused/Appellants about attracting the provisions of the Act, it is contended that the perusal of the charge-sheet on the face of it indicates that the statements of witnesses are so inconsistent that it is difficult to accept that the incident as alleged by the first informant ever occurred. He drew attention of the Court to the statements of one of the victim who claims that who have been stripped off and being subjected to the same acts by the accused as was done with informant and others. He further pointed out from the statements of the two females who are mothers of victims to the effect that they never claim about it being disclosed to them by their sons about occurrence of the incident as alleged herein above. On the contrary, according to him, it shows that one of this witness when went to the spot she had seen all the victims but it is not claimed that they being stripped of. She made allegation about

accused slapping victims.

4. Learned Counsels for informant and victims opposed the Appeals by contending that the offence is heinous. It is submitted that from the statement of informant as well as victim it is clear that the incident of urination etc had occurred, therefore, it is not a fit case to grant regular bail. It is also alleged that victims are likely to be pressurized if the Appellants are enlarged on bail.

5. No doubt, if the allegations in respect of urination on the victim, making them to lick spit coupled with abuses over the caste if found *prima facie* reliable, then it could be called as heinous crime requiring rejection of Appeals for bail. However, *prima facie* perusal of the charge-sheet indicate that there are material inconsistencies in the statements of victims with regard to the manner in which the incident in question has occurred. Statement of witness Pranay shows that the incident of stripping of has occurred in morning itself. However, mother of one of the victim who went to the spot at 11.30 pm does not state anything about it. She only states victims presence at

the spot. Apart from this, it is surprising to note that the victims in respect of occurrence of such incident did not disclose the same to their mother though admittedly victim went to their house in the same evening. Having regard to the age of the victims it is practically impossible to believe that they did not tell incidence occurred with them to mother which were later on disclosed to the police. Pertinently, FIR has been lodged on the next date. Thus, apparently this is a case of exaggeration. This Court is of the *prima facie* view that material on record including statements of victims and other witnesses makes the said occurrence of the incident except for assault caused doubtful. Such observations are inevitable in view of the videos taken by the witness of the said incident. As per the transcript of these videos, there is nothing to indicate that the acts alleged have been committed against the victims. Even in the said video informant is not seen in stripped condition. All these material facts creates serious doubt about allegations made against Appellants.

6. Undisputedly investigation into the crime is

over with filing of charge-sheet. In such circumstances, Appellants against whom there is no criminal history cannot be kept behind bars. Hence, the order

O R D E R

- (i) Appellants in connection with C.R. No. 429 of 2023 registered with Shrirampur Taluka Police Station, Dist. Ahmednagar for the offences punishable under Sections 307, 364, 342, 504, 506, 147, 148, 149 of Indian Penal Code and Sections 3(1)(a), 3(1)(d), 3(2)(va), 3(1)(r), 3(1)(s) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act be released on bail on furnishing PB and SB of Rs. 15,000 (Rupees Fifteen Thousand Only) each with one solvent surety in the like amount.
- (ii) They shall not contact the witnesses directly or indirectly.
- (iii) They shall not interfere with the evidence in any manner whatsoever.
- (iv) Bail before trial Court.

(R. M. JOSHI, J.)

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