



IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPEAL NO. 90 OF 2024

Ajay Rajaram Kamble & Another ...Appellants

Versus

The State of Maharashtra & Another ...Respondents

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Mr. S.S. Thombre, Advocate for appellants.

Mr. D.B. Bhangе, APP for respondent-State.

Ms. Sawari Patil, Appointed advocate for respondent No. 2.

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[CORAM : NITIN B. SURYAWANSHI, J.]

DATE : 1st MARCH, 2024

ORDER :

1. This appeal filed under Section 14A of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 ('Atrocity Act') takes exception to the order dated 08.01.2024, passed by In-charge Additional Sessions Judge, Kandhar, thereby rejecting bail application of appellants.

2. At the instance of Vishal Dhaknikar FIR came to be lodged at C.R. No. 162 of 2023, with Sonkhed Police Station, for offences punishable under sections 326, 324, 323, 504, 506, 294 r/w. 34 and under section 3(1)(r)(s) of Atrocity Act, alleging that on 8.12.2023, at about 10.30 pm, informant and his cousins

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Sanjay Kambale and Rushikesh Gundle went for dinner to Raje Chhatrapati Dhaba. A dispute arose about payment of bill. Accused No. 1- Sumit Darade though was knowing that Informant and his cousins were belonging to scheduled caste, abused them in filthy language by taking name of their caste. Appellant No. 1 who is referred as cook then assaulted by iron spoon having big handle. Accused Sumit caught informant by neck and abused him in the name of caste. Both his cousins were assaulted by accused Sumit by iron rod and stick.

3. Appellants came to be arrested on 19.12.2023 and since then they are in jail. They preferred bail application before Sessions Court, which is rejected. Hence, the present appeal.

4. Heard learned advocate for appellants, learned APP for respondent-State and learned advocate appointed to represent respondent No. 2. Perused the investigation papers.

5. Learned advocate for appellants submits that appellant No. 1 himself belongs to scheduled caste and therefore offence under Atrocity Act is not applicable to his case. He further submits that co-accused Sumit Darade and Yash Wagh are released on regular bail by Trial Court vide order dated

23.02.2024. According to him, on the ground of parity also, appellants are entitled for bail.

6. Learned APP and learned advocate for respondent No. 2 on the other hand strenuously opposed the appeal stating that appellants have committed serious offence and three persons are injured in the incident out of them two have suffered fracture and therefore appellants are not entitled for bail.

7. Appellants are arrested on 19.12.2023. Co-accused Sumit against whom similar allegations are levelled is released by Sessions Court on regular bail. Weapons allegedly used in the crime are recovered and investigation appears to be almost complete. Appellants are permanent resident of village Dhakani and Wadgaon, Taluka Loha, District- Nanded, and they have deep roots in the society and they will not abscond if released on bail. Their presence can be secured during trial.

8. Considering the fact that appellants are in custody since last two months, appellants are entitled for bail. Hence, the following order:

ORDER

(I) Criminal Appeal is allowed.

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(II) Order dated 08.01.2024, passed by in-charge Additional Sessions Judge, Kandar, below Exhibit-1 in C.R. No. 162/2023, is quashed and set aside.

(III) Appellants are directed to be released on bail on executing P.B. and S.B. of Rs. 15,000/- each with one surety each in the like amount in C.R. No. 162 of 2023, registered with Sonkhed Police Station, for offences punishable under sections 326, 324, 323, 504, 506, 294 r/w. 34 of the Indian Penal Code and section 3(1)(r)(s) of Atrocity Act.

(IV) Till filing of charge sheet, appellants shall attend the concerned police station on every Sunday, between 10.00 am to 12.00 noon and shall co-operate in the investigation.

(IV) Appellants shall not influence and/or tamper the prosecution evidence.

9. High Court Legal Services, Sub Committee, Aurangabad shall pay fees of learned advocate appointed to represent respondent No. 2, as per schedule, within four weeks from today.

[NITIN B. SURYAWANSHI, J.]