



IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPEAL NO. 136 OF 2024

Rushikesh Baban Shendge

....Appellant

VERSUS

The State Of Maharashtra And Another

.....Respondents

.....

Mr. S.J. Salunke, Advocate for appellant.

Mr. S.P. Sonpawale, APP for State.

Mr. C.R. More, Advocate for respondent No. 2.

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[CORAM : NITIN B. SURYAWANSHI, J.]

DATE : 28th MARCH, 2024

ORDER :

1. By this appeal filed under section 14-A(2) of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989, appellant challenges the order dated 10.01.2024 passed by learned Special Judge (Atrocity), Osmanabad, in Bail Application No. 6/2024, thereby rejecting the anticipatory bail application of appellant.

2. FIR is lodged by informant alleging that on 01.01.2024 in the evening at about 6.30 pm, he along with his friends Tisaraj Chilwant and Nagesh Janrao were proceeding on a motorcycle towards his house at Ajinta Nagar. At Ramraje Chowk

Pratapsinh Shendge, Vivek Nimbalkar, Vighnharta Choure, Harshal Narwade, Rushi Shendge were there. Pratapsinh Shendge called name of caste of informant and threatened them. All the accused persons assaulted informant and his friends with fists and kick blows. Informant was taken on motorcycle to Waruda road and there all the accused called the name of caste of informant and Pratapsingh Shendge assaulted him with iron rod on head. Vivek assaulted with stick on head and Harshal assaulted with stick on left hand. Other accused persons assaulted him with fists and kick blows.

3. On registration of crime, appellant preferred Bail Application No. 6/2024, before the Sessions Court, which is rejected by Sessions Court. Hence, the present appeal.

4. Heard learned advocate for appellant, learned APP for State and learned advocate for respondent No. 3. Perused the investigation papers.

5. Appellant is prosecuting B.B.A.- C.A at Sinhgad College of Arts and Commerce at Pune. He claims to be residing at Pune and was not present at the time of alleged incident. Merely because he is brother of Pratapsingh, his name is falsely implicated in the present crime.

6. Perusal of FIR shows that all the accused in chorus have taken name of caste of informant and have assaulted him, which is *prima facie* unbelievable. The role attributed to appellant that he has assaulted with fists and kick blows is not supported by medical papers. Over implication of appellant, *prima facie*, appears to be there, hence, appellant is entitled for relief.

7. In the result, Criminal Appeal No. 136 of 2024 is allowed.

8. Impugned order dated 10.01.2024 passed by learned Special Judge (Atrocity), Osmanabad, in Bail Application No. 6/2024 is quashed and set aside.

9. Interim protection granted to appellant by order dated 7th February, 2024 is hereby confirmed.

10. Till filing of charge sheet, appellant shall attend the concerned police station as and when called by investigating officer and shall co-operate in the investigation. Appellant shall not tamper the prosecution evidence.

11. High Court Legal Services, Sub Committee, Aurangabad shall pay the fess of learned advocate appointed to

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represent respondent No. 3, as per schedule, within four weeks from today.

[NITIN B. SURYAWANSHI, J.]

Bhagyawant Punde