



IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
BENCH AT AURANGABAD.

912 CRIMINAL APPEAL NO. 193 OF 2024

SHUBHAM @ GOVIND ANIL DALVI

VERSUS

THE STATE OF MAHARASHTRA AND ANOTHER

Advocate for Appellant : Mr. Rathi Swapnil S.

APP for Respondent/State : Mr.N.B. Patil

Advocate for Respondent no.2 : Ms. Ashwini Lomte (Appointed)

CORAM : **SHIVKUMAR DIGE, J.**

DATE : 23rd July, 2024.

P.C.:

1. This appeal is preferred against the order dated 15th February, 2024 passed by the Special Judge and Additional Sessions Judge, Basmath, Dist. Hingoli, in Criminal Bail Application No.29 of 2024 thereby rejecting the application filed by the present appellant for grant of pre-arrest bail in pursuance of F.I.R. no.53 of 2024 registered with Basmath City Police Station under sections 294, 504, 506 of the Indian Penal Code (For short, "I.P.C.") and under sections 3(2)(v), 3(2)(va) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989.

2. It is prosecution's case that informant Dhammapal Dhembre lodged the report alleging that his maternal uncle Rahul Narayan Gavli, R/o Jununa was murdered on 24th January, 2024. On 29th January, 2024, in connection with that incident, the informant had gone in the Court at Basmath to meet his counsel. After meeting with counsel, he

was waiting outside the court premises. At about 5.30 p.m., it is alleged that the applicant met him and abused on his caste "तु गावात ये महा-या तुमची माय झवुन टाकतो असे तुमचे किती आहेत ते पाहतो तलवारीने तुमचे तुकडे करतो." At that time, his mother and aunt (sister of mother) were there.

3. It is contention of the learned counsel for the appellant that the appellant has been falsely implicated in this case. There is seven days delay in lodging the F.I.R. The appellant is the son of one of the accused, who murdered maternal uncle of the informant. To take revenge of it, false offence is registered against the appellant. The learned counsel further submitted that though the informant alleges that incident has happened in public view but there are no independent witnesses to the said incident. Considering the allegations against the appellant, custodial interrogation of the applicant is not required, hence requested to allow the appeal.

4. It is contention of the learned APP along with the learned counsel for respondent no.2 that the appellant threatened the first informant and abused on his caste in front of Court premises. The incident happened in public place. There are statements of the witnesses, who have stated that the alleged incident is happened. The appellant has threatened the informant to kill him. If the appellant released on bail, there is threat to the life of the informant and his family members. The Sessions Court has passed the well reasoned order. No interference is required in it, hence requested to dismiss the

appeal.

5. I have heard all the learned counsel. Perused the impugned order passed by the Sessions Court.

6. It is alleged that the appellant has abused to the informant on the caste in front of the Court premises. The police papers produced on record show that the statements of the witnesses, who are relatives of the appellant, are recorded. No statements of independent witnesses produced on record in support of the statement of the informant. It appears that though the incident is happened in public place but it is not in public view. Considering the allegations against the appellant, his custodial interrogation is not required and I pass the following order:-

ORDER

- (i) The appeal is allowed.
- (ii) The order dated 15.02.2024 passed by Special Judge and Additional Sessions Judge, Basmath, Dist. Hingoli in Criminal Bail Application No.29 of 2024 is quashed and set aside.
- (iii) In the event of arrest of the appellant in connection with FIR No.53 of 2024 registered with Basmath City Police Station under sections 294, 504, 506 of the Indian Penal Code and under sections 3(2)(v), 3(2)(va) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989, the appellant be released on executing personal bond in the sum of Rs.15,000/- with one surety of

the like amount, on the following conditions :-

- (a) the appellant shall attend the concerned police station as and when required by the Investigating Officer.
- (iv) Fees of Rs.10,000/- be paid to Ms. Ashwini Lomte, learned counsel appointed to represent the cause of respondent no.2 through the High Court Legal Services Sub-Committee, Aurangabad.

[SHIVKUMAR DIGE, J.]

sga