



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

CRIMINAL APPEAL NO. 210 OF 2024

ABHISHEK JALBA REKULWAD
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

...
Mr. Sachin S. Panale, Advocate for Appellant
Mr. S.R. Yadav Lonikar, APP for Respondent Nos.1 & 2/State
Mr. B.S. Bhale, Advocate for Respondent No.3
....

CORAM : NITIN B. SURYAWANSHI, J.

DATE : 01st APRIL, 2024

PER COURT :

1. By this appeal filed under Section 14A of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, appellant takes exception to the order dated 08/02/2024, passed by learned Additional Sessions Judge and Special Judge (Atrocities Act), Udgir, in Criminal Misc. Application (Bail) No.31/2024, thereby rejecting anticipatory bail to appellant in C.R. No.20/2024, registered with Udgir Rural Police Station, Dist. Latur, for offence punishable under Sections 141, 143, 147, 149, 323, 324, 504, 506 of the Indian Penal Code and Section 3(2)(v) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act.

2. FIR is lodged by Sudarshan Sanjay Kamble in short alleging that, on 07/01/2024 at about 07:30 p.m. his cousin brother Aditya Kamble informed him that his brother Bharat Kamble is being beaten by accused persons behind Lal Bahadur Shashtri School. He,

therefore, went there and found that applicant and other accused were beating his brother by fists and kick blows and abusing him. When informant tried to intervene, he was told that his brother was playing song of Dr. Ambedkar. At that time, accused Pravin assaulted informant by iron rod on his head causing bleeding injury, accused Pritam assaulted Bharat Kamble by long sickle on face and head, accused Nitin, Parth Choudhari, Dhananjay Pande and Pritam assaulted informant and his brother Bharat and Ajinkya by fists and kicks. Accused Abhishek (applicant) assaulted Ajinkya with stick on his head and threatened to kill them if they play song of Dr. Ambedkar in future at that place.

3. Heard learned advocate for appellant, learned APP for respondent Nos.1 and 2 and learned advocate for respondent No.3. Perused the investigation papers.

4. Appellant claims to be innocent and he is falsely implicated in the present crime as he is friend of accused Pravin.

5. Perusal of investigation papers reveal that Ajinkya has suffered two contused lacerated wounds on parietal region and on eyebrow. Other injured persons have also received contused lacerated wounds. Said injuries *prima facie* are not possible by means of stick, therefore, *prima facie*, false implication of appellant cannot be ruled out at this stage. Stick is already recovered during

the investigation.

6. In the FIR it is averred that all accused persons in chorus have called name of caste of informant and other injured, the same is *prima facie* not believable. Therefore, bar under Section 18 would not be attracted to the facts of the present case.

7. Appellant was granted interim protection and he has co-operated in the investigation, hence, his pre-trial custodial detention is not necessary.

8. In the result, appeal is allowed by confirming interim protection granted to appellant by order dated 04th March, 2024. Impugned dated 08/02/2024, passed by learned Additional Sessions Judge and Special Judge (Atrocities Act), Udgir, in Criminal Misc. Application (Bail) No.31/2024, is hereby quashed and set aside.

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

(NITIN B. SURYAWANSHI, J.)