



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

CRIMINAL APPEAL NO. 219 OF 2024

SAURABH KALIDAS GOYKAR AND OTHERS
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

...
Mr. Kishor R. Doke, Advocate for Appellant
Mr. C.V. Bhadane, APP for Respondent Nos.1 & 2/State
Mr. Ranjit D. Gaikwad, Advocate for Respondent No.3
...

CORAM : NITIN B. SURYAWANSHI, J.

DATE : 30th APRIL, 2024

PER COURT :

1. This appeal filed under Section 14-A of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, takes exception to the order dated 07/02/2024, passed by learned Special Judge, Bhoom, in Criminal Bail Application No.10/2024, thereby rejecting anticipatory bail to appellants in C.R. No.04/2024, registered with Bhoom Police Station, Dist. Osmanabad, for offence punishable under Sections 143, 147, 148, 149, 324, 504, 506 of Indian Penal Code and Sections 3(1)(r), 3(1)(s) and 3(2)(va) of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act.

2. FIR is lodged by Ganesh Subhash Telang alleging that he belongs to Scheduled Caste and accused know this fact. Eight months prior to the incident Pandit Goykar has sexually assaulted daughter of Dilip Ijgaj who belongs to Scheduled Caste. Therefore,

informant along with Dilip went to Bhoom Police Station to file report about that incident. Since then, accused and other persons of their community were having grudge against informant. On that ground they quarreled with informant on 08/01/2024 at 09:00 p.m. Said quarrel was settled, but thereafter on 09/01/2024 at 09:00 p.m. when informant was standing in front of shop of Samadhan Hingmire, accused persons came there and started abusing him by taking name of his caste. Shankar Goykar assaulted informant with iron pipe on his back, shoulder, nose and cheek. Dinesh Goykar and Omkar Goykar assaulted him with iron chain on his back and legs. Shankar Goykar assaulted his cousin Adesh Telang with iron pipe on his back and injured by assaulting with stone on his head and abused him in the name of caste. At that time, Saurabh Goykar also abused and assaulted them with fists and kick blows. Samadhan Taitrao Goykar and Shrikant Ankush Goykar assaulted informant, his friend Anil Pawar and cousin Adesh Telang with stone.

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

4. After arguing at length on merit, when this court was not inclined to grant relief to appellant No.2 Shankar Yuvraj Goykar, appellant No.3 Samadhan Taitrao Goykar and appellant No.5 Shrikant Ankush Goykar, learned advocate for appellants, on

instructions, seeks permission to withdraw their appeal. Permission granted. Appeal of appellant Nos.2, 3 and 5 is disposed of as withdrawn.

5. In the FIR it is alleged that six accused persons have abused informant, his cousin Adesh Telang and his friend Anil Pawar. Shankar Goykar, Dinesh Goykar and Omkar Goykar in chorus have taken name of caste of informant and abused them. Shankar assaulted informant with iron pipe, Omkar assaulted with chain, Shankar also assaulted Adesh Telang. Samadhan Goykar and Shrikant Goykar assaulted Anil Pawar with stone. Allegation to the extent that three accused persons have taken name of informant's caste in chorus is *prima facie* unbelievable. Therefore, this court is of the prima facie view that offence under Atrocity Act would not be attracted, hence, bar under Section 18 would not be made applicable to the facts of the present case.

6. Perusal of injury certificate of informant, Anil Pawar and Adesh Telang indicates that they have received injuries which are attributed to appellant No.2 Shankar Yuvraj Goykar, appellant No.3 Samadhan Taitrao Goykar and appellant No.5 Shrikant Ankush Goykar. Appellant Nos.1 and 4 appear to be over implicated in present crime. Nothing is to be recovered from them, hence, their pre-trial custodial detention is not necessary. Appellant Nos.1 and 4 were granted interim protection and they have co-operated in the investigation.

7. Hence, appeal of appellant No.1 Saurabh Kalidas Goykar and appellant No.4 Omkar @ Yash Raghunath Goykar is allowed by confirming interim protection granted to them by order dated 06/03/2024. Impugned order dated 07/02/2024, passed by learned Special Judge, Bhoom, in Criminal Bail Application No.10/2024, is hereby quashed and set aside to the extent of appellant No.1 Saurabh Kalidas Goykar and appellant No.4 Omkar @ Yash Raghunath Goykar.

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

(NITIN B. SURYAWANSHI, J.)