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IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPEAL NO.347 OF 2024

Bandu Chand Shaikh

APPELLANT

VERSUS

The State of Maharashtra and Others

RESPONDENTS

.....
Mr. Joydeep Chatterji, Advocate for the appellant
Mr. K. K. Naik, APP for respondent - State
Mr. Prathamesh V. Chadhari, Advocate for respondent No.3
.....

[CORAM : NITIN B. SURYAWANSHI, J.]

DATE : 30th APRIL, 2024

ORDER :

1. This appeal, filed under section 14-A (2) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989, takes exception to order dated 19th March, 2024 passed by learned Additional Sessions Judge, Ahmednagar in Criminal Bail Application No.287 of 2024.

2. Respondent No.3 lodged FIR on 26th January, 2024 alleging that, his brother had land gut No. 62 in which he has installed welding shop and there is also residential houses, chicken shop and a hotel. The shop is given on rent. Near Welding shop, there is residential house and hotel of appellant Bandu. Bandu was enraged because shop of informant was given on rent and he had

also threatened him with dire consequences. In the night on 24th January, 2024, Bandu came to his house with Sadik Shaikh and cook of his hotel Salman Pathan and three others. Bandu told the informant that he got more land and held his collar and uttered derogatory words in the name of his caste. He tore his shirt buttons. Sadik assaulted informant with kicks and fists. Cook Salman Pathan and three others abused him and his wife in the name of their caste and assaulted them with kicks and fists . They pulled hair of his wife. They also threatened that if police case is filed, they will cut them into pieces.

3. After registration of crime, appellant was arrested on 7th March, 2024. Hence, he filed application seeking regular bail which is rejected by the Trial Court. Hence, this appeal.

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

5. Record reveals that wife of appellant has lodged FIR against informant, which is registered at Crime No. 0070 of 2024 with Pathardi Police Station for offence punishable under section 354, 323, 504, 506, 509 of the Indian Penal Code, alleging commission of offence on 22nd January, 2024. Said FIR is lodged on 26th January, 2024 at 18.19 hours and the FIR in question is lodged at

23.02 hours on the same day. Possibility, therefore, cannot be ruled out that so as to give counter blast to the FIR lodged by appellant's wife, FIR in question is lodged.

6. Apart from the above, appellant is arrested on 7th March, 2024 and request of investigating agency for his police custody is rejected by the Trial Court. Investigation is going on and it is not clear as to when prosecution is likely to file charge sheet. Considering the allegations made in the FIR, appellant cannot be detained indefinitely. Trial of appellant is not likely to commence and conclude in the near future. Appellant is permanent resident of village Bhose, Taluka - Pathardi, District - Ahmednagar. He has deep roots in the society and he will not abscond if released on bail. In the result, following order:-

ORDER

- A. Appeal is allowed.
- B. Impugned order dated 19th March, 2024 passed by learned Additional Sessions Judge, Ahmednagar in Bail Application No. 287 of 2024 is quashed and set aside.
- C. Appellant - Bandu Chand Shaikh be released bail, in connection with Crime No.74 of 2024 registered with Pathardi Police Station, District - Ahmednagar for offence

punishable under sections 323, 143, 147, 149, 504, 506, of the Indian Penal Code and under section 3 (1) (r), 3 (1) (s), 3 (2) (va) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989, on executing Personal Bond and Surety Bond of Rs.15,000/- with one surety in the like amount.

- D. Appellant shall not, in any manner, try to contact and / or influence prosecution witnesses and shall not enter the area where informant is residing, until further orders. Appellant shall not tamper prosecution evidence.
- E. Learned advocate appointed for respondent be paid fees as per schedule within four weeks.

[NITIN B. SURYAWANSHI]
JUDGE