



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPEAL NO. 469 OF 2024

SUNIL MARGU PAWAR
VERSUS
THE STATE OF MAHARASHTRA AND ANOTHER

Ms. Sheetal Salunke, Advocate for the appellant
Mr. B. A. Shinde, APP for the respondent/State
Ms. Rani Bora, Advocate for respondent No.2 (appointed)

CORAM : R. M. JOSHI, J.

DATE : 30th JULY, 2024

PER COURT :-

1. Heard.
2. Appellant apprehends arrest in connection with Crime No. 0165/2024 registered with Tuljapur Police Station, Dist. Osmanabad for the offences punishable under Sections 327, 324, 323, 504, 506, 143, 147, 148 r/w 149 of Indian Penal Code and under Section 3(2)(va) of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act.
3. The first informant Gangaram lodged report on 8th April, 2024 in respect of the incident has occurred on 3rd April, 2024. He alleges that he had been to the office of appellant wherein the co-accused abused him over caste and also assaulted him. He specifically states about one of the accused person causing bleeding injury to his head by assault

with a rod.

4. Learned counsel for the appellant submits that this is a case of false implication and it is a counter blast to the first information report lodged by appellant against the informant. It is her submission that on 3rd April, 2024 incident had occurred at 3.00 pm in which the informant herein and his accomplices abused and assaulted the appellant. There is also allegation that they assaulted his cousin brother Somnath with knife.

5. Learned APP and learned counsel for the informant opposed the said submission by referring to the statements made in the first information report. According to them there are specific allegations against the appellant and co-accused of they abusing the informant over his caste and also assaulting him.

6. The documents placed on record indicate that first information report came to be lodged on 3rd April, 2024 vide bearing No. 152 of 2024 with Tuljapur Police Station at the instant of the appellant wherein the occurrence of the incident of 3rd April, 2024 is reported on same day. It is thus clear that this report is already lodged against the informant. In the light of this fact, the delay caused in lodging of the first information report in the instant case assumes importance. The incident,

in instant case, has allegedly occurred at 1 pm on 3rd April, 2024 but report thereof is lodged after 5 days. There is no explanation in the first information report the reason for which the same could not be lodged immediately. Moreover, perusal of the medical papers placed before this Court do not indicate that the informant had sustained any bleeding injury to his head. When there is specific allegation in the first information report about he being assaulted on his head with iron rod and which has resulted into bleeding injury, there ought to have been medical evidence to that effect. Having regard to the afore stated facts the possibility of false implication of the appellant owing to the previous report lodged by him against the informant is not ruled out.

7. In any case there is no allegation against the appellant about he causing any assault on the informant or even abusing him over the caste. Having regard to these facts, the appellant has made out a case for protecting his liberty. Hence, appeal stands allowed in terms of interim order dated 15th May, 2024.

8. Fees of the appointed counsel is quantified Rs. 6,000/-, which is to be paid by the High Court Legal Services Authority, Sub Committee, Aurangabad.

(R. M. JOSHI, J.)

ssp