



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

922 CRIMINAL APPEAL NO. 581 OF 2024

1. Shubham Hirasing Rajput
2. Ravi Sanjay Jadhav
3. Prakash @ Vitthal Uddhav Pawar – **withdrawn**
4. Vishal @ Omkar Dilip Sawant

..APPELLANTS

-VERSUS-

1. The State of Maharashtra
2. The Superintendent of Police
3. Aadesh Balu Jetithor

..RESPONDENTS

Advocate for Appellant : Mr. Rahul R. Karpe
APP for Respondent/State : Mr.C.V. Bhadane
Advocate for Respondent no.3 : Ms.Varsha M. Shelke (appointed)

CORAM : **SHIVKUMAR DIGE, J.**

DATE : 6th August, 2024.

P.C.:

1. After hearing for some time, when this Court expressed disinclination to allow the appeal to the extent of appellant no.3, the learned counsel for the appellants, on instructions, seeks leave to withdraw the appeal of appellant no.3.
2. Considering his request, leave granted. The appeal is dismissed as withdrawn to the extent of appellant no.3.
3. So far as appellant nos.1, 2 and 4 are concerned, this appeal is preferred against the order dated 18th June, 2024 passed below Exhibit-1 by the Additional Sessions Judge, Omerga in Criminal Bail Application No.73 of 2024 filed in pursuance of F.I.R. No.0308 of 2024 registered with Omerga Police Station, Tq.Omerga, Dist.Osmanabad,

for the offences punishable under sections 324, 323, 504, 506, 143, 147, 148, 149 of the Indian Penal Code (For short, "IPC") and sections 3(1)(r), 3(1)(s), 3(2)(va) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act and section 135 of the Maharashtra Police Act.

4. It is prosecution's case that on 18th May, 2024 at around 8 p.m. when the informant had gone to bring grocery from grocery shop, at that time, his friend Shailesh Sutar called him on his phone and asked him to come in the courtyard of Zilla Parishad School. When the informant went there, the appellants and co-accused were present there. The informant could see all the appellants and co-accused due to street light lamp. When the informant asked the co-accused Shailesh why he called him, at that time, it is alleged that co-accused Prakash had told the informant that in the procession of Dr. Babasaheb Ambedkar he was giving slogans in loud voice and he was dancing and staring at them. When the informant told him that he was not dancing in procession, it is alleged that at that time, co-accused Prakash and others caught hold him and assaulted on stomach of the informant by knife. It is alleged that thereafter co-accused Shailesh and co-accused Aniket caught hold the informant and co-accused Ajay gave blow of knife on his stomach. When the informant sat down at that time, co-accused Aniket, Shailesh and Kamlakar and appellants abused informant on his caste and assaulted him with fist and kick

blows. Due to shouts of informant, other persons came at the incident spot then the appellant's and co-accused ran away from the incident spot.

5. It is contention of the learned counsel for the appellants that the appellants have been falsely implicated in this case. The appellants have not assaulted the informant. The allegations of abuse on caste are in chorus. No specific allegations are made against the appellants. The appellants are college going students. Considering these aspects, their custodial interrogation is not required and requested to allow the appeal.

6. It is contention of the learned APP along with learned counsel for respondent no.3. that the appellants along with co-accused called the informant in the courtyard of Zilla Parishad School. They assaulted the informant with knife with an intention to kill him. They abused him on his caste. Considering the allegations against the appellants, their custodial interrogation is required and requested to dismiss the appeal.

7. I have heard all the learned counsel. Perused F.I.R., police papers produced on record and the impugned order passed by the Special Court.

8. The main allegations are against co-accused Prakash and Ajay. It is alleged that they assaulted the informant with knife. The allegations against the appellants are that they abused the informant on his caste. The said allegations are in chorus. No specific allegations

are against the appellants that they abused the informant on his caste. The appellants are college going students. Considering the allegations against the appellants, their custodial interrogation is not required. The injury sustained by the informant is simple in nature. Considering these aspects, I pass the following order :-

ORDER

- (i) The appeal is allowed.
- (ii) The order dated 18th June, 2024 passed below Exhibit-1 by the Additional Sessions Judge, Omerga in Criminal Bail Application No.73 of 2024 is quashed and set aside.
- (iii) In the event of arrest of appellant nos.1, 2 and 4 in connection with F.I.R. No.0308 of 2024 registered with Omerga Police Station, Tq.Omerga, Dist.Osmanabad, for the offences punishable under sections 324, 323, 504, 506, 143, 147, 148, 149 of the Indian Penal Code and sections 3(1)(r), 3(1)(s), 3(2)(va) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act and section 135 of the Maharashtra Police Act, they be released on executing personal bond in the sum of Rs.15,000/- each with one surety of the like amount by each of them, on the following conditions :-

- (a) the appellants shall attend the police station as and when required by the Investigating Officer.

(iv) Fess of Rs.10,000/- be paid to Ms. Varsha M. Shelke, learned counsel appointed to represent the cause of respondent no.3 through High Court Legal Services Sub-Committee, Aurangabad.

[SHIVKUMAR DIGE, J.]

sga