



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPEAL NO. 681 OF 2024

SANTOSH BALASAHEB BHONDAVE
VERSUS
THE STATE OF MAHARSHTRA AND OTHERS

Mr. S. E. Shekade, Advocate for the appellant
Mrs. D. S. Jape, APP for the respondent/State
Mr. Y. H. Lagad, Advocate for respondent no.3.

CORAM : R. M. JOSHI, J.

DATE : 24th OCTOBER, 2024

PER COURT :-

1. Appellant apprehends arrest in connection with Crime No. 207 of 2023 registered with Belwandi Police Station, Dist. Ahmedangar for the offence punishable under Sections 143, 147, 148, 149, 341, 324, 327, 323, 504, 506 r/w 34 of the Indian Penal Code, Sections 3, 4/25 of Arms Act and Sections 3(1)(r), 3(1)(s), 3(2) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act.

2. First informant lodged report in respect of incident occurred on 27/05/2023 between 5.45 to 7 p.m. There is allegation that present appellant along with co-accused came to the spot and they caused assault on him. There is specific allegation against the co-accused of causing assault on him with weapons. As far as present appellant is concerned, it is stated he was holding a sword however, he has kicked

informant but no assault caused with sword. There is allegation with regard to all accused persons abusing and insulting him over his caste.

3. Learned counsel for the appellant submits that the investigation is completed and charge-sheet has been filed. According to him, there is no allegation against the present appellant of causing any assault with any weapon and as such question of recovery of any weapon from him does not arise. With regard to the allegation of alleged insult of the informant over the caste is concerned, it is contended that it is stated in the report of all accused in at one go abused him over his caste, which is not probable.

4. Learned APP and learned counsel for the informant opposed the grant of anticipatory bail. It is their contention that there is specific statement in the first information report about appellant carrying sword at the spot. It is contended that for recovery of the said weapon as well for recovery of the vehicle in which accused came to the spot, custodial interrogation of the appellant is necessary. Reference is made to Section 18 of the Atrocities Act to contend that there is embargo for granting anticipatory bail.

5. From first information report also it can be gathered that the informant had some dispute with co-accused. Present appellant is the

friend of the co-accused. Thus, possibility of over implication is not ruled out. As far as allegations are concerned, the first information report does not show that any weapon was used by the appellant in causing assault on the informant. Thus, it is not the case of any recovery to be done at the instance of appellant. As far as the allegation against all accused about they abusing the informant over his caste is said to have been done at one group by the all the accused person, it is rightly pointed out by the learned counsel for the appellant that such abuses simultaneously in exact word is not possible. Thus, the provisions of Section 18 of the Atrocities Act would not get attracted to the present case. Since charge-sheet is filed and as nothing is to be recovered from the appellant, appeal stands allowed in following terms.

ORDER

(i) In the event of arrest of appellant in connection with Crime No. 207 of 2023 registered with Belwandi Police Station, Dist. Ahmedangar for the offence punishable under Sections, 143, 147, 148, 149, 341, 324, 327, 323, 504, 506 r/w 34 of the Indian Penal Code, Sections 3, 4/25 of Arms Act and Sections 3(1)(r), 3(1)(s), 3(2) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, he shall be released on bail on furnishing PR Bond of Rs.15,000/- (Rupees Fifteen Thousand only) with one solvent surety in the like amount.

(ii) He shall attend the concerned police station as and when called by the Investigating Officer.

(iii) He shall not contact the witnesses directly or indirectly.

(iv) He shall not interfere with the evidence in any manner whatsoever.

(v) He is further directed to cooperate the investigating agency for further investigation.

(R. M. JOSHI, J.)

ssp