



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

928 CRIMINAL APPEAL NO. 605 OF 2024

SAYYAD LAL SAYYED MAHMAD

VERSUS

THE STATE OF MAHARASHTRA AND OTHERS

...

Advocate for Appellant : Mr. Salunke Mayur Vasant

APP for Respondent/State : Mr.P.K. Lakhotiya

Advocate for Respondent no.3 : Mr. Sawant Eknath P.

...

CORAM : **SHIVKUMAR DIGE, J.**

DATE : 20th August, 2024.

P.C.:

1. This appeal is preferred against the order dated 28th June, 2024 passed below Exhibit-1 by the learned Additional Sessions Judge, Gangakhed, Dist. Parbhani in Criminal Bail Application No.159 of 2024 filed in pursuance of the F.I.R. No.363 of 2024 registered with Police Station, Gangakhed, Dist. Parbhani, for the offences punishable under sections 324, 323, 504 read with 34 of the Indian Penal Code (For short, "IPC") and sections 3(1)(r), 3(1)(s) and 3(2)(va) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act.
2. It is prosecution's case that on 6th June, 2024 around 2:30 p.m., when informant was standing in front of Tahsil office, Gangakhed with his friend Akash Lahate, at that time, the appellant came there. When the informant asked him to return the amount of Rs.30,000/-, at that time, it is alleged that the appellant abused the informant on his caste and went away. Thereafter, the informant informed about the incident

to his brother and nephew. Then they all told the informant that they will confront with the appellant. Then they all went at Dilkash Chowk Gangakhed at around 3:00 p.m. When they all asked the appellant why he abused on the caste of the informant, at that time, co-accused Anis Lal Sayyad assaulted with iron rod on the left eye of the informant, whereas the appellant assaulted with frying spoon on the face of witness Limbaji Ghobale. It is alleged that co-accused Shahrukh assaulted Swargesh Ghobale with stick and iron rod.

3. It is contention of the learned counsel for the appellant that the appellant has been falsely implicated in this case. The appellant never abused the informant on his caste. The incident was not occurred in public view. The injury sustained by the injured witnesses are simple in nature. Considering the allegations against the appellant, his custodial interrogation is not required and requested to allow the appeal.

4. It is contention of the learned APP along with learned counsel for respondent no.3 that the appellant abused the informant on his caste and when the informant and his brother had gone to confront it, the appellant and co-accused assaulted the informant, his brother and his friend with iron rod and other weapons. The learned APP further submitted that the Special Court while rejecting the anticipatory bail application of the appellant has specifically observed that the incident is happened in public place. The custodial interrogation of the appellant is required and requested to dismiss the appeal.

5. I have heard all the learned counsel. Perused the impugned order passed by the Special Court.

6. The allegations against the appellant are that he abused the informant on his caste. It appears that after abusing by the appellant, informant did not lodge the complaint to the Police Station. Though the incident was allegedly happened at public place but it was not in public view as it was conversation between the appellant and informant. The allegations against the appellant are that he assaulted the injured witness Limbaji Ghobale with frying spoon, his injury certificate shows that he has suffered simple injuries. Considering these facts, the custodial interrogation of the appellant is not required and I pass the following order :-

ORDER

- (i) The appeal is allowed.
- (ii) The order dated 28th June, 2024 passed below Exhibit-1 by the learned Additional Sessions Judge, Gangakhed, Dist. Parbhani in Criminal Bail Application No.159 of 2024 is quashed and set aside.
- (iii) In the event of arrest of the appellant in connection with the F.I.R. No.363 of 2024 registered with Police Station, Gangakhed, Dist.Parbhani, for the offences punishable under sections 324, 323, 504 read with 34 of the Indian Penal Code and sections sections 3(1)(r), 3(1)(s) and 3(2)(va) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, the appellant be released on executing

personal bond in the sum of Rs.20,000/- with one surety of the like amount, on the following conditions :-

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

[SHIVKUMAR DIGE, J.]

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