



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

CRIMINAL APPEAL NO. 592 OF 2023

PARMESHWAR VISHWAMBAR LOHAGAVE AND OTHERS
VERSUS
THE STATE OF MAHARASHTRA AND ANOTHER

...
Mr. Panditrao S. Anerao, Advocate for Appellants
Mr. S.B. Jadhav, APP for Respondent No.1 – State
Ms. Sayali Tekale Dadpe, Advocate for Respondent No.2 (Appointed)

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CORAM : NITIN B. SURYAWANSHI, J.

DATE : 14th FEBRUARY, 2024

PER COURT :

1. This appeal takes exception to the order dated 04/07/2023, passed by learned Additional Sessions Judge, Biloli, in Criminal Bail Application No.130/2023, thereby rejecting anticipatory bail to appellants in C.R. No. 93/2023, registered with Ramtirtha Police Station, Nanded, for offence punishable under Sections 324, 323, 504 r/w 34 of the Indian Penal Code and Sections 3(1)(r), 3(1)(s) and 3(2)(va) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act.

2. FIR is lodged by Govind Pandhari Suryawanshi alleging that on 21/06/2023 at about 11:30 p.m. when he was present in his house, Srikant Wadje had called him to come to Junegaon, Narsi, by making phone call. Accordingly, informant along with his friends Sainath and Chandu went to water tank. At that time, appellants and co-accused Yogesh have assaulted him with belt and abused

him on his caste saying that why he had talked to his brother. They had also abused and assaulted Aslam, when he had come to rescue informant. Venkat Kokane, Balu Bhilwande and Laxmibai Gawale have pacified the quarrel.

3. Pursuant to registration of crime, appellants preferred anticipatory bail application, which is rejected. Hence the present appeal.

4. Heard learned advocate for appellants, learned advocate for respondent No.2 and learned APP for respondent No.1/ State. Perused the investigation papers.

5. After arguing extensively on merits, when this Court was not inclined to grant relief to appellant No.2 Sham Ambadas Janure, learned advocate for appellants, on instructions, seeks permission to withdraw his appeal. Permission granted. Appeal of appellant No.2 Sham Ambadas Janure is dismissed as withdrawn.

6. Perusal of FIR and investigation papers show that there are general allegations levelled against appellant No.1. It is alleged in the FIR that total four accused in chorus have abused informant in the name of his caste, which is *prima facie* not believable. Therefore, *prima facie*, offence under the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, is not attracted and bar under Section 18 of the said Act would not apply.

7. Charge-sheet in the present crime is already filed. Weapon allegedly used in the crime by co-accused is recovered. Against appellant No.1, allegation is that he has assaulted with *Chappal* on informant's back. Injury certificate does not support the said allegation. In view of filing of charge-sheet, pre-trial custodial detention of appellant No.1 is not necessary.

8. In the result, appeal of appellant No.1 Parmeshwar Vishwambar Lohagave is allowed by confirming interim protection granted to him by order dated 13th July, 2023. Impugned dated 04/07/2023, passed by learned Additional Sessions Judge, Biloli, in Criminal Bail Application No.130/2023, is hereby quashed and set aside.

9. Fees of learned advocate appointed to represent respondent No.2 be paid by the High Court Legal Services, Sub-Committee, Aurangabad, as per the schedule, within a period of four weeks.

(NITIN B. SURYAWANSHI, J.)