



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPEAL NO.603 OF 2023

1. Govind S/o Anna Jadhav
2. Balasaheb S/o Jagannath Kale ... Appellants

VERSUS

The State of Maharashtra
and another ... Respondents

.....
Mr. Sandeep N. Lute, Advocate for Appellants
Mr. A.R. Kale, APP for Respondent No.1 – State
Mr. N.V. Khadkikar, Advocate (appointed) for Respondent No.2
.....

[CORAM : NITIN B. SURYAWANSHI, J.]

DATE : 19th JANUARY, 2024

ORDER :

1. Appellants apprehend arrest in connection with Crime No. 422 of 2023 registered with Ambad Police Station, District Jalna for offence punishable under sections 323, 324, 504 read with 34 of the Indian Penal Code and sections 3(1)(r), 3(1)(s), 3(2)(va) of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act.

2. By this appeal filed under section 14-A of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989, appellants challenge the impugned order passed by Special Judge, Ambad, in Criminal Bail Application No. 202 of

2023, thereby rejecting anticipatory bail application filed by appellants.

2. FIR is lodged by Vijay Gadhekar alleging that on 03.06.2023, when he was doing centring work along with Mazar Shaikh at Rest House, Ambad, at that time, appellants came there and questioned them, why they were doing the work at night hours. When the informant told them that he has to complete the work within stipulated time, appellant No.1 asked Aadhaar Card from informant, then informant showed his Aadhaar Card. Appellant No.1 asked his caste. Informant disclosed that he belongs to Scheduled Castes. Thereafter both the appellants hit informant by means of iron rod on back, knee and hand. Appellants abused in the name of his caste and assaulted him.

3. Heard learned advocate for appellant, learned APP for respondent No.1- State and learned advocate for respondent No.2 – Informant.

4. Learned APP as well as learned advocate for respondent No.2 strenuously opposed the bail stating that there is bar under Section 18 of the Scheduled Castes

Schedule Tribe (Prevention of Atrocities) Act, and therefore, appellants do not deserve relief of anticipatory bail.

5. It is the case of appellants that they had made a complaint to Sub Divisional Engineer, Public Works Department, Ambad on 14.03.2023 about the sub standard work of Rest House, and appellant No.1, who aspires to be future Zilla Parishad member, therefore, appellants are falsely implicated in the present crime.

6. Perusal of investigation papers shows that informant has suffered contusion on left index finger and CLW (lacerated) of right hand ring finger. In the FIR, it is alleged by informant that he was beaten with iron rod on back, knee and hand. Injury certificate does not support the said allegations. *Prima facie*, it appears that there was no occasion for appellants to ask about the caste of informant. It is alleged by informant in the FIR that he was acquainted with appellants. Considering totality of circumstances, false implication of appellants cannot be ruled out at this stage. *Prima facie*, it appears that appellants are mala fidely implicated in the present crime.

Weapon allegedly used in the crime i.e. iron rod is recovered. The investigation appears to be on the verge of completion. In the light of peculiar facts of the present case, custodial detention of appellants is not necessary.

7. The appeal is therefore allowed by confirming interim protection granted by order dated 19.07.2023.

8. Till filing of charge sheet, appellants shall attend the concerned police station as and when called by the Investigating Officer. Appellants shall not tamper prosecution evidence.

9. Appellant shall not, in any manner trying to contact the informant, influence the prosecution witnesses and/or tamper prosecution evidence.

10. High Court Legal Aid Services Sub Committee, Aurangabad to pay the fees of learned advocate N.V. Khadkikar representing respondent No.2, as per schedule, within four weeks from today.

[NITIN B. SURYAWANSHI]
JUDGE

S.P. Rane