



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPEAL NO. 663 OF 2024

SUDHIR MOHAN KADAM AND ANOTHER
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

Mr. S. S. Panale, Advocate for the appellants
Mr. B. B. Bhise, APP for the respondent/State

CORAM : R. M. JOSHI, J.

DATE : 10th OCTOBER, 2024

PER COURT :-

1. Heard.
2. Learned counsel for the appellants submits that appellants are co-accused in crime No. 626/2024 registered with Shrigonda Police Station, Dist. Ahmednagar for the offences punishable under Sections 143, 147, 148, 149, 323, 324, 504, 506 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.
3. He drew attention of the Court to the first information report wherein it is stated that as per the first informant, the present appellants came to the spot at later point of time i.e. after 15 minutes of the occurrence of the first incident. It is his submission that there is no allegation against the appellants of they abusing or insulting the

informant on her caste. It is his submission that the other offence applicable in the present case is under Section 323 of IPC which is bailable in nature. Learned counsel for the appellant has also drawn attention of the court to the civil proceedings pending between the parties in respect of the dispute over the agricultural land as well as proceeding under section 5 of the The Mamlatdars' Courts Act.

4. Learned counsel for the informant opposed the application by citing seriousness of crime as well as provision of Section 18 of the Atrocities Act. Learned APP contended that there is injury certificate on record which indicate causing of about six injuries to the informant in the said incident and hence, it is not a fit case to grant of anticipatory bail.

5. There is no dispute about the fact that parties are at logger head in view of the dispute about the agricultural land. Civil proceeding as well as proceeding revenue authority are pending. In the light of this fact, if the first information report is concerned, it clearly shows that the incident has occurred in two phases. As far as present appellants are concerned, they were not involved in the first part of the incident. There is no allegation against the appellants that they insulted the informant over her caste. Perusal of the injury certificate indicates that abrasions were there on the person of the informant. It has to be considered in the context of her statement in the first information report that she fell down and

injuries were sustained to her both hands due to the stones on the ground. In any case the offence alleged against the present appellants cannot travel beyond Section 323 of IPC which is bailable in nature. Hence, appeal is allowed in terms of interim order dated 29/07/2024.

(R. M. JOSHI, J.)

ssp