



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

930 CRIMINAL APPEAL NO. 664 OF 2024
MUSDDIKHODDIN MUJEEBODDIN (IN F.I.R. NAMED AS
MUSDDIN @ MUNNA SIDDIKI)
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

...
Advocate for Appellant : Mr. Salunke Sudarshan J.
APP for Respondent/State : Mr.P.K. Lakhotiya
Advocate for Respondent no.3 : Mr.Suraj Mantri (appointed)

...
CORAM : SHIVKUMAR DIGE, J.
DATE : 20th August, 2024.

P.C.:

1. This appeal is preferred against the order dated 22nd July, 2024 passed by the Additional Sessions Judge-3, Parbhani in Criminal Bail Application No. 527 of 2024 filed in pursuance of the F.I.R. No.0390 of 2024 registered with Police Station, Pathri, Dist. Parbhani, for the offences punishable under sections 118(1), 115(2), 3(5) of the Bhartiya Nyaya Sanhita, 2023 (For short, "BNS") 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 12th July, 2024, around 10:30 a.m., when informant's friend Santosh was going on his motorcycle, at that time the appellant had parked his Car on road. Santosh told appellant to take said Car at the side of road, it is alleged that the appellant had abused Santosh on his caste and he called other person and he told that " तु हमेशा मुसलमानाचे विरुद्ध मे काम कर रहा है " and they

assaulted Santosh with fist and kicks. It is alleged that the appellant took out wooden stick from his Car and assaulted on back of Santosh. It is alleged that the appellant gave fist blow on the nose of Santosh. Due to that, there was bleeding from nose of Santosh. Then Santosh called informant and told him about the incident and asked him to come there. When the informant reached at the incident spot, Santosh was not there, he had gone to Police Station, and Police had referred him to Civil Hospital.

3. It is contention of the learned counsel for the appellant that the appellant has been falsely implicated in this case. The relative of the appellant has lodged complaint against Santosh alleging that he had damaged his Car and assaulted him with fist and kick blows. To counter the said F.I.R., the false F.I.R. has been lodged against the appellant. The learned counsel further submitted that the appellant never abused victim Santosh on his caste. Moreover, though the Police have applied section 118 of the BNS, it will not be applicable in the present matter. The learned counsel further submitted that 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 the learned counsel for respondent no.3 that the appellant had abused the victim on his caste without any reason. The victim was going on his motorcycle and the appellant had parked his Car on the road. The

victim had asked the appellant to take his Car on one side. On that ground only, the appellant called his friend and both of them assaulted the victim. The injury certificate of the victim shows that there is fracture of nasal bone of the victim. It supports the contents in the F.I.R. The learned APP further submitted that the appellant and his friend has burnt the motorcycle of the victim – Santosh. It shows the violent Act of the appellant and co-accused. The counter F.I.R. is lodged by relative of the appellant against the victim only to dilute the offence registered against the appellant. Considering the allegations against the appellant, his custodial interrogation is required and requested to dismiss the appeal.

5. I have heard all the learned counsel. Perused the F.I.R., police papers produced on record and impugned order passed by Special Court.

6. The allegations against the appellant are that he abused informant on his caste and assaulted the informant with wooden stick and punched on his nose. Injury certificate of victim Santosh produced on record shows that there is fracture to his nasal bone. It supports the contents mentioned in the F.I.R. The police papers produced on record shows that motorcycle of the victim Santosh has been burnt by the appellant and co-accused. It shows overt act of the appellant. The appellant not only abused the victim on his caste but he has also grievously injured the victim by punching on his nose. The incident is

happened at public place. Wooden stick is used in the crime. It is necessary to recover the said stick from the appellant. The investigation is in process. Considering these facts, the custodial interrogation of the appellant is required. It is contention of the learned counsel for the appellant that section 118 of BNS would not be applicable. In my view, while deciding the anticipatory bail application, this Court can not consider the applicability of section. The Court has to consider the allegations in the F.I.R. and police papers in support of F.I.R. In the present case, the allegations against the appellant are that he abused the victim on his caste and fractured his nasal bone. The injury certificate supports the contents of the F.I.R. In view of the above, I pass the following order :-

ORDER

- (i) The appeal is dismissed.
- (ii) Fees of Rs.10,000/- be paid to Mr.Suraj Mantri, the learned counsel appointed to represent the cause of respondent no.3 through the High Court Legal Services Sub-Committee, Aurangabad.

[SHIVKUMAR DIGE, J.]