



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPEAL NO. 970 OF 2024

NILESH ASHOK AHER AND OTHERS
VERSUS
THE STATE OF MAHARASHTRA AND ANOTHER

Mr. Pramod C. Mayure, Advocate for the appellants
Mr. P. K. Lakhotiya, APP for the respondent/State
Mr. Sayali Tekale, Advocate for respondent no.2 (appointed)

CORAM : R. M. JOSHI, J.

DATE : 24th OCTOBER, 2024

PER COURT :-

1. Appellants apprehend arrest in connection with Crime No. 567 of 2023 registered with Ghargaon Police Station, Tq. Sangamner, Dist. Ahmednagar for the offence punishable under Sections 323, 504, 506 of the Indian Penal Code, 1860 and Sections 3(1)(s)(r), 3(2)(v)(a) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act.

2. First information report came to be lodged in respect of incident occurred on 20th December, 2023 at about 8 pm. The allegation made therein indicates that the present appellants questioned informant as to why he is working against the political party to which accused belong. There is allegation that they abused and assaulted informant with fist and kick blows. It is stated that all accused persons at one go

abused informant over his caste as recorded in the first information report.

3. Learned counsel for the appellants submits that charge-sheet is filed which indicate that investigation is over. According to him the injury certificate shows that the simple injuries caused to the witness. It is his contention that all witnesses are the friends of the informant. According to him it is not probable that all accused in at once would abuse the informant in same words over his caste. According to him, this is a case of false implication owing to the political differences. He, therefore, seeks anticipatory bail.

4. Learned APP and learned counsel for the informant opposed the grant of anticipatory bail. Learned APP has pointed out the statements of witnesses who have stated about the occurrence of the incident on the line of the first information report. Learned counsel for the informant submitted that in view of Section 18 of the Atrocities Act anticipatory bail cannot be granted.

5. From the first information report itself it is clear that there is political rivalry between two groups. As far as the physical assault is concerned, the record indicates that simple injuries were caused to the informant and witnesses. Thus, as far as the offences under the Penal

Code, the said offences are bailable in nature. With regard to the abuses and insult of the informant over the caste is concerned, as rightly argued on behalf of the appellants that it is not probable that all accused persons that one once would use the same word to abuse. The Court further finds substance in the contention of the learned counsel for the appellant that owing to the political rivalry false implication is not ruled out. Having regard to these facts, the embargo under Section 18 of the Atrocities Act would not get attracted to the present case. This is not the case wherein custodial interrogation of the appellants is necessary.

6. Learned APP has pointed out that there are criminal antecedents against two appellants, namely, Nilesh and Vikash. Even if it is accepted that there are one criminal case each filed against them, since this is apparent case of the political rivalry and possible false/over implication, appeal deserves to be allowed. Hence, appeal stands allowed in following terms.

ORDER

- (i) In the event of arrest of appellants in connection with Crime No. 567 of 2023 registered with Ghargaon Police Station, Tq. Sangamner, Dist. Ahmednagar for the offence punishable under Sections 323, 504, 506 of the Indian Penal Code, 1860 and Sections 3(1)(s)(r), 3(2)(v) (a) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, they shall be released on

bail on furnishing PR Bond of Rs.15,000/- (Rupees Fifteen Thousand only) each with one solvent surety in the like amount each.

(ii) They shall attend the concerned police station as and when called by the Investigating Officer.

(iii) They shall not contact the witnesses directly or indirectly.

(iv) They shall not interfere with the evidence in any manner whatsoever.

(v) They are further directed to cooperate the investigating agency for further investigation.

7. Fees of the appointed counsel is quantified Rs. 10,000/- and it is to be paid by the High Court Legal Services Authority, Sub Committee, Aurangabad.

(R. M. JOSHI, J.)

ssp