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IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPEAL NO.1023 OF 2023

Dagdu Suka Thelari and Others

APPELLANTS

VERSUS

The State of Maharashtra and Another

RESPONDENTS

.....
Mr. Chaitanya C. Deshpande, Advocate for the appellants
Mr. S. V. Hange, APP for respondent - State
Mr. Aniket S. Avhad, Advocate for respondent No.2 (appointed)
.....

[CORAM : NITIN B. SURYAWANSHI, J.]

DATE : 8th MARCH, 2024

ORDER :

1. Leave to add prayer clause.
2. By this appeal, filed under section 14-A of the Scheduled Caste and Scheduled Tribes (Prevention of Atrocities) Act, 1989, appellants challenge order dated 12th October, 2023 passed by learned Additional Sessions Judge, Dhule in Criminal Bail Application No. 779 of 2023 and seek anticipatory bail in Crime No. 256 of 2023 registered with Nijampur Police Station, District - Dhule for offence punishable under sections 326, 324, 143, 147, 148, 149, 323, 504, 506 of the Indian Penal Code and under section 3 (1) (r), 3 (1) (s), 3 (2) (va) of the Atrocities Act, as the same is denied by the Sessions Court.

3. FIR is lodged by respondent No.2 alleging that out of 11 accused persons named in the FIR, accused Raosaheb Bandu Parkhe was carrying axe and all other accused persons were carrying sticks. They were abusing Bapu Thakare and Bharti Thakare. When informant and people accompanying him, asked accused persons not to abuse, Banshi Karande abused them by taking name of their caste and threatened them. Then all the accused persons assaulted informant and others with sticks. Stones were pelted at them and accused, in group of 2 to 3 persons, assaulted informant and his brother Ravindra with sticks.

4. After filing of charge sheet, appellants filed Criminal Bail Application No. 779 of 2023 under section 438 of the Criminal Procedure Code, which is rejected by learned Sessions Judge. Hence, this appeal.

5. Heard learned advocate for appellants, learned APP for the State and learned advocate appointed for respondent No.2 - informant. Perused the papers of investigation.

6. Perusal of the FIR and charge sheet reveals that general and omnibus allegations are levelled against all the accused persons. FIR alleges that in chorus name of caste was taken and

abuses were given. Considering these aspects, *prima facie*, provisions of Atrocities Act are not attracted in the present case and hence bar under section 18 of the Atrocities Act would not apply.

7. Out of 11 accused persons, 7 were arrested and they are released on regular bail. Present appellants were granted interim anticipatory bail and they have co-operated in the investigation. Weapons allegedly used in the crime are already recovered.

8. Since appellants have co-operated in the investigation and as nothing is to be recovered from them, pre-trial custodial detention of appellants is not necessary.

9. Hence, the appeal is allowed by confirming interim protection.

10. Learned advocate appointed for respondent No.2 be paid fees as per schedule within four weeks from today.

[NITIN B. SURYAWANSHI]
JUDGE