



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
BENCH AT AURANGABAD**

**CRIMINAL APPEAL NO. 1162 OF 2023**

ABDUL WAHAB ABDUL MANNAN AND OTHERS  
*VERSUS*  
THE STATE OF MAHARASHTRA AND ANOTHER

...  
Mr. Shaikh Mujtaba Gulam Mustafa, Advocate for Appellant  
Mr. S.V. Hange, APP for Respondents  
Mr. K.A. Sharma, Advocate for Respondent No.2 (Appointed)  
...

**CORAM : NITIN B. SURYAWANSHI, J.**

**DATE : 04<sup>th</sup> MARCH, 2024**

**PER COURT :**

1. Leave to amend the prayer clause. Amendment to be carried out forthwith.
2. This appeal filed under Section 14A of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, takes exception to the order dated 08/11/2023, passed by learned Additional Sessions Judge, Biloli, in Criminal Bail Application No.245/2023, thereby rejecting anticipatory bail application of appellants in C.R. No.182/2023, registered with Biloli Police Station, Dist. Nanded, for offence punishable under Sections 323, 504, 506, 143 of the Indian Penal Code and Sections 3(1)(r) and 3(2)(va) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act.
3. FIR is lodged by Nagesh Rajanna Mamalwad, alleging that on 22/10/2023, at about 11:30 a.m., when he was proceeding

towards his agricultural field in his tractor, he accidentally gave dash to the parked motorcycle. He said sorry, but still five accused persons assaulted him with fists and kick blows. Accused also assaulted Anil Gangadhar Gogarod, who was standing there. Accused persons abused informant by taking name of his caste.

4. Heard learned APP for respondent No.1/State, learned advocate for appellants and learned advocate for respondent No.2. Perused the investigation papers.

5. Learned advocate for appellants submits that FIR at C.R. No.181/2023, is registered at Biloli Police Station, Nanded, for offence punishable under Sections 324, 323, 504, 506, 427 r/w 34 of I.P.C., by appellant Abdul Wahab Abdul Mannan Shaikh against 1. Nagesh Mamalwad, 2. Hrushikesh Gogarod, 3. Anil Gogarod and 4. Ashish Gomalwad, alleging that at the time of incident dash was given to the motorcycle parked in front of his shop. When his nephew Babalu asked tractor driver about the incident, tractor driver Nagesh gave abuses and scuffled with Babalu and Minaz. Tractor driver Nagesh Mamalwad assaulted Babalu with wooden log. Thereafter Nagesh came along with his friends Hrushikesh Gogarod, Anil Gogarod and Ashish Gomalwad and again scuffled and threw sacks of rice on road thereby causing damage to the extent of Rs.5,000/- to 6,000/-. Appellants claim that to give counter blast to the FIR lodged by them, present FIR is lodged.

6. Perusal of investigation papers show that appellant No.2

Minhaj Shaikh Abdul Hamid has suffered contusion on occipital lobe and appellant No.3 Babloo Shaikh s/o Shaikh Hamid has suffered abrasion on medial aspect of left forearm. No injury certificates of informant and other injured are placed on record. In the FIR, no specific abuses are stated, and vague and general statement is made that abuses in the name of caste were given. Therefore, *prima facie* offence under the Atrocity Act, is not made out and bar under Section 18 is not attracted. Nothing is to be recovered from appellants. Therefore, pre-trial custodial detention of appellants is not necessary.

7. In the result, appeal is allowed by confirming interim protection granted to appellants by order dated 13/12/2023. Impugned dated dated 08/11/2023, passed by learned Additional Sessions Judge, Biloli, in Criminal Bail Application No.245/2023, is hereby quashed and set aside.

8. Fees of learned advocate appointed to represent respondent No.2 be paid by the High Court Legal Services, Sub-Committee, Aurangabad, as per the schedule, within a period of four weeks.

**(NITIN B. SURYAWANSHI, J.)**