



IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPEAL NO. 1184 OF 2023

Galu @ Gokul @ Dinesh Balu KhadeAppellant

VERSUS

The State Of Maharashtra And AnotherRespondents

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Mr. B.R. Warma, Advocate for appellant.

Mr. S.R. Yadav Lonikar, APP for respondent No. 1.

Ms. Shilpa Magre, Appointed advocate for respondent No. 2.

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[CORAM : NITIN B. SURYAWANSHI, J.]

DATE : 20th MARCH, 2024

ORDER :

1. By this appeal filed under section 14A of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989, appellant challenges the order passed by learned Additional Sessions Judge, Amalner, in Cri. Bail Application No. 380 of 2022.

2. At the instance of respondent No. 2, FIR at C.R. No. 430/2023 is registered with Parola Police Station, for offences punishable under sections 323, 324, 143, 147, 148, 427 of Indian Penal Code and under section 3(1)(r), 3(1)(s), 3(2)(va) of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities)

Bhagyawant Punde

Act, 1989. It is alleged in the FIR that when informant was installing CCTV cameras on her house, accused persons told informant not to face cameras towards their house. At that time, accused Sunita Khade and Lalita Khade pulled informant from platform attached to her house (*ota*) and assaulted by slapping her. Appellant assaulted daughter of informant by razor blade.

3. Appellant preferred Cri. Bail Application No. 380 of 2022 before Sessions Court, which is rejected. Hence, the present appeal.

4. Heard learned advocate for appellant, learned APP for respondent No. 1-State and learned advocate for respondent No. 2/informant. Perused the charge sheet.

5. Trial Court has rejected the application of appellant on the ground that appellant has assaulted Damini, daughter of informant, aged 13 years, by blade and caused injury to her left wrist.

6. Perusal of investigation papers reveals that there is no injury certificate of Damini placed on record. Charge sheet in the present crime is filed on 31.12.2023. Though allegations of insult and abuse in the name of caste are levelled against

appellant and others, same are *prima facie* unbelievable as it is alleged that all accused in chorus have referred the name of caste of informant. There is no material supporting the alleged assault by appellant on the daughter of informant with blade. The transcript of CCTV footage shows that appellant was carrying wooden log and not blade. But no allegations of assault by appellant by wooden log are levelled in the FIR.

7. In the light of aforestated facts, *prima facie*, offences under Atrocity Act are not attracted against appellant and hence, bar under section 18 would not be applicable to the present case. Charge sheet is already filed in the present crime. Therefore, pre-trial custodial detention of appellant is not necessary.

8. In the result, appeal is allowed by setting aside order dated 11.12.2023, passed by learned Additional Sessions Judge, Amalner, in Cri. Bail Application No. 380/2023.

9. Interim protection granted to appellant by order dated 20.12.2023 is hereby confirmed.

10. Appellant shall not tamper the prosecution evidence.

11. High Court Legal Services, Sub Committee, Aurangabad, shall pay the fees of learned advocate appointed to represent respondent No. 2, as per schedule, within four weeks from today.

[NITIN B. SURYAWANSHI, J.]