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IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPEAL NO.1195 OF 2023

Namdev Rajaram Sapate

APPELLANT

VERSUS

The State of Maharashtra and Others

RESPONDENTS

AND
CRIMINAL APPEAL NO.132 OF 2024

Jyoti Khetraji Pawar and Others

APPELLANTS

VERSUS

The State of Maharashtra and Others

RESPONDENTS

.....
Mr. Abhijit More h/f Mr. M. K. Jadhav, Advocate for the appellants
Mr. A. R. Kale, APP for respondent - State
Ms. Vishakha Bang, Advocate for respondent No.2
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[CORAM : NITIN B. SURYAWANSHI, J.]

DATE : 6th MAY, 2024

ORDER :

1. Appellant in Criminal Appeal No. 1195 of 2023 filed under section 14-A (2) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989, challenges order dated 18th December, 2023 passed by learned Additional Session Judge – 2 Hingoli, below Exhibit-1 in Criminal Bail Application No. 638 of 2023.
2. Three appellants in Criminal Appeal No. 132 of 2024

challenge orders dated 18th December, 2023 and 4th January, 2024 passed by learned Additional Sessions Judge-2, Hingoli below Exhibits-1 in Criminal Bail Applications No. 637 of 2023 and 681 of 2023.

3. Respondent No.2 lodged FIR alleging that on 21st November, 2023, betrothal ceremony of her sister was performed, however, appellants were not invited for the same. Therefore, they got enraged and abused her in the name of her caste. Appellant Namdev had one bottle containing poison. Appellant Jyoti and other three accused caught her and appellant Namdev forcibly poured poison in her mouth. Brother and mother of informant tried to rescue her, but some poison went into her stomach. Accused assaulted informant and her relatives. Her clothes were torn.

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

5. It is the case of appellants that they are falsely implicated in the present crime, as appellant Jyoti has lodged FIR against husband and father of informant in the present crime and two others, alleging that accused Govind and Suraj Kale caught her hands and accused Vijay Kale tried to administer Korajin to her.

Some Korajin went in her stomach. When her husband tried to intervene, accused Shamrao Kale made him fall on ground and assaulted him on back and hand with slaps and fists blows. According to appellants, because appellant Jyoti contested election for the post of Sarpanch, against informant, she had grudge against appellants. It is further case of appellants that appellant Namdev is lawyer, who is representing appellants in the disputes between informant and appellant's side, therefore, he is falsely implicated in the offence.

6. Learned advocate for respondent No.2 has argued that appellant Namdev is an influential person and he is likely to tamper prosecution evidence. Bottle, through which poisonous substance was administered to informant, is required to be recovered from appellant Namdev. Hence, appellant Namdev is not entitled for protection.

7. Perusal of the record indicates that, earlier also, informant had lodged FIR at Crime No. 234 of 2021 with Hingoli Police Station against 9 accused persons, including appellant Namdev, who is arrayed as accused No. 5 in the said crime. In the said crime also, similar allegations were levelled, alleging commission of offence under the Atrocities Act. In that crime, appellant Namdev is granted anticipatory bail.

8. There *prima facie* appears substance in the contention of appellants that they are implicated in the present crime due to political rivalry and previous disputes. Possibility cannot be ruled out that since appellant Jyoti lodged FIR at Crime No. 629 of 2023, present FIR, by making similar allegations as are made by appellant Jyoti, is filed by informant.

9. Admittedly, provisions of the Atrocities Act are not attracted to the facts of the present case, as alleged incident has taken place inside the house of informant. Considering the peculiar facts of the present case and the previous disputes, including political rivalry, this is not a case where appellants are required to be remanded to custody. In the result, following order:

ORDER

- A. Criminal Appeals No. 1195 of 2023 and 132 of 2024 are allowed.
- B. Impugned orders dated 18th December, 2023 and 4th January, 2024 passed by learned Additional Sessions Judge -2 Hingoli below Exhibits -1 in Criminal Bail Applications No. 638 of 2023, 637 of 2023 and 681 of 2023 are quashed and set aside.

- C. In the event of arrest of appellants in connection with Crime No. 630 of 2023 registered with Hinholi (Rural) Police Station, District Hingoli, appellants be released on bail on executing Personal Bond and Surety Bond of Rs.15,000/- each with one surety each in the like amount.
- D. Till filing of the charge sheet, appellants shall attend the concerned police station as and when called by Investigating Officer.
- E. Appellants shall not tamper prosecution evidence.
- F. Learned advocate appointed for respondent No.2 be paid fees as per schedule, within four weeks.

**[NITIN B. SURYAWANSHI]
JUDGE**