



IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPEAL NO. 196 OF 2024

Shubham @ Shivam Prakash Patil And AnotherAppellants

VERSUS

The State Of Maharashtra

.....Respondent

.....

Mr. R.V. Gore, Advocate for appellants

Mr. C.V. Bhadane, APP for State

Mr. A.D. Lipne, Advocate for respondent No. 3

.....

[CORAM : NITIN B. SURYAWANSHI, J.]

DATE : 15th APRIL, 2024

ORDER :

1. By this appeal filed under Section 14-A(2) of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989, appellants challenged the order dated 16.02.2024, passed by learned Additional Sessions Judge, Bhusawal, in Criminal Bail Application No. 95/2024, thereby rejecting anticipatory bail application of appellants.

2. FIR is lodged by Ravindra Ingale on 05.01.2024 alleging that on 04.01.2024 at about 7.00 pm, Shubham Patil, Atul Patil, Pradip Patil, Ganesh Patil, Akash Patil and two juvenile assaulted him. At the time of incident, informant was sitting in

Bhagyawant Punde

his house, he was called by Shubham Patil. When he came out of the house accused persons carried him into the field of Raju Ingale. Shubham Patil caught hold of him from behind and pressed his mouth. Atul Patil assaulted with sharp edged weapon on his left arm. Sandesh Patil, Ganesh Patil, Akash Patil, Pradip Patil and Gullu alias Abhishek Patil assaulted him with fists and kick blows. By taking name of his caste they threatened him.

3. After registration of crime at C.R. No. 5/2024, with Bodwad Police Station, Dist. Jalgaon, under sections 324, 323, 143, 147, 149, 506, 148, 452, 363 of IPC, and under section 3(1)(r)(s), 3(2)(va) of Scheduled Castes and Scheduled Tribes (Prevention of Atrocity) Act, 1989, appellants preferred Criminal Bail Application No. 95/2024, before Sessions Court, which is rejected. Hence, the present appeal.

4. Heard learned advocate for appellants, learned APP for respondents-State and learned advocate for respondent No. 3. Perused the investigation papers.

5. Appellant No. 1 is stated to be taking education. Since the incident has taken place in the field, *prima facie* provisions of Atrocity Act are not attracted. Hence, bar under

section 18 of Atrocity Act would not be applicable to the facts of the present case. Perusal of injury certificate of informant shows that he has received blunt trauma on head, lower back, hip and abrasion over left arm, which are stated to be simple injuries.

6. Learned advocate for respondent No. 3 submits that during pendency of anticipatory bail application of appellants before the Sessions Court, at the instance of informant NCR No. 0096/2024 is registered against appellants on 13.02.2024 alleging that Atul Patil came to the house of informant and threatened him to withdraw the atrocity complaint lodged by him.

7. Learned APP points out that after interim protection was granted to appellants, appellants' side and informants side have lodged FIR with Bodwad Police Station at C.R. No. 54/2024, under sections 326, 324, 323, 143, 147, 148, 149, 427, 504, 506 r/w 4/25 of Arms Act and 37(1)(3) of Maharashtra Police Act, and C.R. No. 55/2024, under sections 326, 324, 143, 147, 148, 149, 427, 504, 506 r/w 4/25 of Arms Act and 37(1)(3) of Maharashtra Police Act against each other. Informant as well as appellants are injured in the subsequent incident. Investigating officer further reported that both appellants are seriously injured

in the subsequent incident.

8. In the backdrop of aforesaid facts and considering the injury certificate and the fact that both appellants are seriously injured in the subsequent incident, and as stick allegedly used in the present crime is already recovered, appellants are entitled for relief. Hence, the following order:

ORDER

- (I) Criminal Appeal No. 196/2024 is allowed.
- (II) Order dated 16.02.2024, passed by learned Additional Sessions Judge, Bhusawal, in Criminal Bail Application No. 95/2024, is hereby quashed and set aside.
- (III) In the event of arrest of appellant No. 1- Shubham alias Shivam Prakash Patil and appellant No. 2- Atul Devidas Patil, in connection with C.R. No. 5/2024, registered with Bodwad Police Station, Dist. Jalgaon, under sections 324, 323, 143, 147, 149, 506, 148, 452, 363 of IPC, and under section 3(1)(r)(s), 3(2)(va) of Scheduled Castes and Scheduled Tribes (Prevention of Atrocity) Act, 1989, they be released on executing Personal Bond and Surety Bond of Rs. 15,000/- each with one surety each in the like amount.
- (IV) Till filing of charge sheet, appellants shall not enter village Chinchkhed, Taluka- Bodwad, District- Jalgaon, except for attending police station during investigation.

- (V) Till filing of charge sheet, appellants shall attend the concerned police station as and when called by investigating officer. Appellants shall not tamper the prosecution evidence.
- (VI) It is made clear that if weapon allegedly used in the present crime is recovered from Atul Devidas Patil, he shall be deemed to be in custody of police at the time of recovery, under section 27 of Indian Evidence Act.

[NITIN B. SURYAWANSHI, J.]