



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

CRIMINAL APPEAL NO. 59 OF 2024

SUBHASH RAJU WAGHMODE .. APPELLANT
VS.
THE STATE OF MAHARASHTRA AND ANR. ..RESPONDENTS

Mr. Amit Icham a/w Mr. Aniket Nikam, for the appellant.
Mr. Sachin Hande, for respondent no.2.
Smt. Sangeeta D. Shinde, APP for the State.

CORAM : M. S. KARNIK, J.

DATE : APRIL 15, 2024

P.C. :

1. Heard learned counsel for the appellant, learned counsel for the respondent no.2 and learned APP for the State.
2. This is an appeal for quashing and setting aside the impugned order dated 08/01/2024 passed by the Sessions Court, Sangli rejecting anticipatory bail application of the appellant in connection with the offence punishable under Sections 324, 384, 504, 506 read with 34 of the Indian Penal Code, 1860 ("IPC", for short) and under Section 3(1)(r), 3(1)(s) & 3(2)(va) of the Scheduled Castes and Scheduled Tribes

(Prevention of Atrocities) Act, 1989 (for short, "the Atrocities Act") registered on 16/12/2023 vide C.R. No. 825 of 2023 with Jat Police Station.

3. On 24/01/2024, the appellant was protected by an interim order which read thus :

"1. Heard learned counsel for the appellant. The case of the complainant is that in October 2023 following a minor accident, there was a quarrel between the complainant and the present appellant. As a result of this grudge, on 15/12/2023 at about 10:30 p.m., when the complainant and his friend were going to have dinner at Surya Hotel, the appellant came in front of them and took out knife like weapon. It is alleged that the complainant was abused in the name of his caste. An amount of Rs. 10,000/- was demanded for expenses incurred as a result of the accident which took place for which the appellant was blaming the complainant. It is then alleged that when the complainant started running away, the appellant caught the complainant and assaulted him with fist blows.

2. I have perused the injury certificate. The injuries are simple in nature. In the facts and circumstances of the present case, I am inclined to issue notice to the respondent no.2, returnable on 20/02/2024."

4. Learned APP as well as learned counsel for respondent no.2 opposed the appeal. It is submitted that there are allegations in the name of caste. It is submitted that the appellant is a habitual offender. After externment period was over, the appellant has committed the present offence. hence, the appellant does not deserve any relief. It is

submitted that as many as 10 offences are registered against the appellant in Jat taluka for bodily offence. There is one offence registered vide C.R. No. 49 of 2014 against the appellant with Umadi police station under sections 379, 427, 34 of IPC.

5. I have perused the materials on record. To support the contention of the complainant as regards caste based abuses, I find that there are no independent witnesses. The statement of the witness- Aakash Sagre reveals that he is a friend of the complainant. Prima facie, he can not be regarded as an independent witness. Two witnesses are there, however, they are also friends of the complainant. So far as the assault is concerned, the appellant assaulted the complainant with fist blows. The injury certificate indicates that the injury sustained is simple in nature. No doubt, there are several offences registered against the appellant, but in my opinion that by itself should not be a reason to deprive the appellant the facility of pre-arrest bail. Learned counsel for the appellant submitted on instructions that the appellant is willing to reside out of Jat taluka till conclusion of the trial. The appeal therefore can be allowed. The

interim protection granted earlier is hereby confirmed.

Hence, the following order :-

ORDER

- (a) The appeal is allowed.
- (b) The impugned order dated 08/01/2024 passed by Sessions Court is quashed and set aside.
- (c) In the event of arrest in connection with C.R.No. 825 dated 16/12/2023 registered with Jat Police Station, Sangli the appellant-Subhash Raju Waghmode shall be released on bail on furnishing P.R. bond to the extent of Rs.15,000/- with one or more sureties of the like amount.
- (d) Except for the purpose of attending the trial in this case and other cases, the appellant shall not enter Jat taluka till the conclusion of the trial.
- (e) The appellant shall report to the police station which is nearest to the place of his residence while residing outside Jat taluka once in a week on every Sunday of the month between 11.00 a.m. and 1.00 p.m, commencing May-2024.
- (f) The appellant shall inform the trial Court as well as the investigating officer the contact details as well as

residential address while residing outside Jat taluka.

(g) It is made clear that if the appellant enters Jat taluka or breached any of the condition, the same shall afford a ground to the prosecution or complainant to apply for cancellation of bail.

(h) If the request is made by the complainant for police protection, the same shall be considered by the competent authority on its own merits in accordance with the Maharashtra Witness Protection and Security Act, 2017.

6. The appeal is disposed of.

(M. S. KARNIK, J.)