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

CRIMINAL APPEAL NO.1356 OF 2023

VAIBHAV SUBHASH CHOUDHARI ..APPELLANT
VS.

1. THE STATE OF MAHARASHTRA

2. SAGAR NARESH GAIKWAD ..RESPONDENTS

Adv. Anandmaya Dhorde i/b. Adv. Nitin Gaware Patil for the
appellant.

Ms. S. D. Shinde, APP for the respondent No.1-State.

Adv. Sameer Mhatre for respondent No.2.

CORAM : M. S. KARNIK, J.

DATE : JANUARY 30, 2024

ORAL JUDGMENT :

1. Heard learned counsel for the applicant, learned APP
for the State and learned counsel for respondent No.2.

2. This is an appeal for quashing and setting aside the
impugned order below exhibit-5 dated 04.11.2023 rejecting
the bail application passed by the Special Judge, Baramati,
District Pune in connection with FIR bearing C.R. No.581 of
2023 registered with Daund Police Station, Pune Rural,
District Pune for the offences punishable under Sections
143, 147, 148, 149, 323, 324, 326, 504 and 506 of the
Indian Penal Code, 1860 and under Sections 3(1)(r)(s) and

3(2)(va) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 (hereafter "Atrocities Act", for short).

3. The FIR is dated 09.07.2023. The allegation is that on 09.07.2023 at 12.30 a.m. the respondent No.2 was chitchatting with his nephew. The appellant along with six unknown persons approached the complainant and had a forced conversation with him. When the informant questioned the intention of the appellant, the appellant as well as the other co-accused assaulted the informant. It is alleged that the appellant abused the informant in the name of his caste. It is alleged that the appellant assaulted the informant and his family members with a wooden log. I have perused the injury certificates of the informant and his relatives. The informant's father suffered dislocation of his shoulder joint. All the other injuries are simple in nature.

4. The appeal is opposed by learned APP as well as learned counsel for respondent No.2. It is submitted that apart from the fact that the appellant has brutally assaulted the informant and other family members and abused the

appellant in the name of caste, the appellant has as many as four criminal cases registered against him with Shrigonda Police Station. These criminal antecedents according to learned counsel for respondent No.2 dis-entitle the appellant to be enlarged on bail. It is further submitted that even against the father of the appellant there are as many as thirteen criminal cases registered with Shrigonda Police Station for bodily offences.

5. In my opinion the aforesaid criminal antecedents by itself against the appellant should not be a factor to deprive the appellant the facility of bail considering that the appellant is now in custody since 10.07.2023 for a period of more than six months with no possibility of the trial concluding any time soon. Learned counsel for the appellant on instructions submits that the appellant is even willing to stay outside Daund taluka till such time of the order is modified by the trial Court. In this view of the matter, considering that the investigation is complete and the charge-sheet has been filed, in the facts and circumstances of the present case further incarceration of the appellant

will only be by way of a pre-trial punishment. The appellant does not appear to be a flight risk. Hence, the following order :-

ORDER

- (a) The Criminal Appeal is allowed.
- (b) The impugned order dated 04.11.2023 passed by the Special Judge, Baramati, District Pune is quashed and set aside.
- (c) The appellant-Vaibhav Subhash Choudhari in connection with FIR bearing C.R. No.581 of 2023 registered with Daund Police Station shall be released on bail on his furnishing P.R. Bond of Rs.25,000/- with one or more sureties in the like amount.
- (d) The appellant is permitted to furnish cash bail surety in the sum of Rs.25,000/- for a period of 6 weeks in lieu of surety.
- (e) The appellant shall attend the Investigating Officer of Daund Police Station once in a month every first Monday of the month between 11.00 a.m. and 1.00 p.m.
- (f) The appellant shall not directly or indirectly make any inducement, threat or promise to any person

acquainted with the facts of the case so as to dissuade him from disclosing the facts to Court or any Police Officer. The appellant shall not tamper with evidence.

(g) On being released on bail, the appellant shall furnish his contact number and residential address to the Investigating Officer and shall keep him updated, in case there is any change.

(h) Except for attending the trial in this case or in any other pending cases after due intimation to the Investigating Officer and for the purpose of reporting to the Investigating Officer, the appellant shall not enter Daund taluka after being released on bail, till the trial concludes.

(i) The appellant shall attend the trial regularly. The appellant shall co-operate with the trial Court and shall not seek unnecessary adjournments.

(j) It is open for the appellant to move an application to the trial Court for modification of the condition (h) after a period of six months from today which application for modification shall be considered on its own merits.

(k) The appellant shall not threaten or intimidate the complainant or any of the witnesses.

6. The Criminal Appeal is disposed of.

7. I express my gratitude for the able assistance rendered by the Advocate Sameer Mhatre representing the respondent No.2 appointed through Legal Aid Services Authority.

(M. S. KARNIK, J.)