

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

CRIMINAL APPEAL NO.432 OF 2024

1. Tushar Banda Patole
2. Rahul Ramchandra Patole
3. Vishal Banda Patole
4. Akshay Sopan Jadhav
5. Sahil Tukaram Shewale
6. Akash Dnyandeo Shevale
7. Raj Dilip Jadhav
8. Uday Shrimant Yedekar

....Appellants

V/s.

The State of Maharashtra and
Anr.

....Respondents

**WITH
CRIMINAL APPEAL NO.441 OF 2024**

Chimaji @ Tejas Abaso Patole

....Appellant

V/s.

The State of Maharashtra and
Anr.

....Respondents

Ms Manisha Devkar with Mr. Shankar Katkar, Ms Siddhi Patil for
the Appellants.

Ms Shilpa K. Gajare-Dhumal, APP for Respondent No.1-State.

Mr. D.D. Rananaware for Respondent No.2.

Mr. A.S. Shinde, PSI, Vaduj Police Station, Satara, present.

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CORAM : SANDEEP V. MARNE, J.

DATED : 11 November 2024.

P.C. :-

1) These are the appeals filed under the provisions of Section 14-A of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 (**SCST Act**) challenging order dated 2 April 2024 passed by the learned Additional Sessions Judge and Special Judge, Vaduj, rejecting the application filed by the Appellants for grant of pre-arrest bail in connection with C.R.No.103 of 2024 registered with Vaduj Police Station, District-Satara, for the offences punishable under Sections 141, 143, 147, 148, 365, 324, 506 and 149 of the Indian Penal Code (**IPC**) and under Sections 3(2)(va) and 6 of the SCST Act.

2) I have heard Ms Devkar, the learned counsel appearing for the Appellants, who would submit that the IPC Sections included in the FIR are bailable. That Section 324, which was sought to be made non-bailable offence was not notified at the relevant time and that therefore even the offence under Section 324 also continues to be bailable. She would further submit that all the Appellants are college going students and have been falsely implicated in the incident. That the allegations against the Appellants are omnibus in nature. She would further submit that there is a cross complaint lodged against the Complainant, on account of which false FIR has been lodged by him against the Appellants. She would submit that the Appellants are granted interim protection by this Court by order dated 30 April 2024. That the Appellants have attended the police station on 7 May 2024 and have co-operated with the completion of the investigations. She would therefore submit that interim protection granted in favour of the Appellants be made absolute.

3) The Appeals are opposed by Ms. Gajare, the learned APP appearing for the Respondent-State. She would submit that the weapons used by the Appellants during the course of commission of

crime are to be recovered. That the Appellants have not co-operated in recovery of weapons and that therefore their custodial interrogation is necessary for the purpose of collecting the necessary evidence for subjecting them to prosecution. She would further submit that two of the Appellants -Vishal Banda Patole and Akshay Sopan Jadhav have committed another crime on 19 October 2024 and are absconding since then. She would submit that all the Appellants are habitual offenders and are likely to commit further crime if anticipatory bail is granted to them. She would therefore submit that the Appeals filed by the Appellants be dismissed.

4) The Appeals are also opposed by Mr. Rananaware, the learned counsel appearing for Respondent No.2-Complainant. He would submit that the Appellants are alleged to have committed scheduled offences on account of which offences under Sections 3(2)(va) of the SCST Act is included in the FIR. He would submit that the Complainant has been badly injured on account of severe assault by the Appellants by use of dangerous weapons. He has invited my attention to photographs of Respondent No.2 to demonstrate the injuries suffered by him. He would therefore submit that since prima facie case is made out against the Appellants, bar under Section 18 of the SCST Act would get attracted in the present cases. He would accordingly pray for dismissal of the Appeals.

5) Having considered the submissions canvassed by the learned counsel appearing for the parties, it is seen that the Complainant is allegedly picked up on a motorcycle by accused Tushar Banda Patole and Rahul Ramchandra Patole and taken at a venue where alleged assault was committed. Accused Vishal Banda Patole has used chain of vehicle and Akshay Sopan Jadhav used iron rod for committing assault on the Complainant. It appears that both Vishal

Banda Patole and Akshay Sopan Jadhav have allegedly committed another crime on 19 October 2024 in connection with which C.R. No.338 of 2024 is registered for offence under Sections 109, 118(2), 118(3) r/w 3(5) of the Bhartiya Nyay Sanhita (**BNS**) and Section 135 of the Maharashtra Police Act, 1951. It thus, appears that the Appellant -Vishal Banda Patole and Akshay Sopan Jadhav have misused the interim protection granted by this Court by order dated 30 April 2024 and have got themselves involved in another crime. In that view of the matter, this Court is not inclined to grant anticipatory bail to Appellants- Vishal Banda Patole and Akshay Sopan Jadhav.

6) So far as rest of the Appellants are concerend, there is no specific allegation against Appellants -Tushar Patole and Rahul Patole about commission of assault. The main allegation against the duo is about picking up the Complainant on motorcycle and carrying him to the venue at which the alleged assault is committed. Thus, there are no allegations of assault so far as Tushar Patole and Rahul Patole are concerend. So far as the rest of the Appellants are concerned, the allegations against them are about assault committed on the Complainant using leather belt and wooden log. So far as Appellants- Sahil Tukaram Shewale, Akash Dnyandeo Shevale, Raj Dilip Jadhav and Uday Shrimant Yedekar and Chimaji@ Tejas Abaso Patole are concerned, the allegations are omnibus in nature. In that view of the matter, since the rest of the accused are on interim protection granted by this Court by order dated 30 April 2024, the said protection deserves to be made absolute.

7) So far as the apprehension expressed by Ms. Gajare-Dhumal, about recovery of weapons is concerned, the weapons allegedly used by the rest of the Appellants are leather belt and wooden log. The

rest of the Appellants can be directed to remain present before the Investigating Officer for the purpose of recovery of the said weapons.

8) I accordingly, proceed to pass the following order:-

(a) Appeal stands dismissed qua the Appellants -Vishal Banda Patole and Akshay Sopan Jadhav.

(b) So far as rest of the accused are concerned, the order dated 2 April 2024 passed by the learned Additional Sessions Judge and Special Judge, Vaduj is set aside.

(c) Interim protection granted in favour of the Appellants- Tushar Banda Patole, Rahul Ramchandra Patole, Sahil Tukaram Shewale, Akash Dnyandeo Shevale, Raj Dilip Jadhav, Uday Shrimant Yedekar and Chimaji@ Tejas Abaso Patole is made absolute subject to the following conditions:-

(i) The Appellants, who are granted anticipatory bail shall remain present before the Investigating Officer on 25, 26 and 27 November 2024 between 11.00 a.m. to 2.00 p.m. and shall co-operate with the Investigating Officer not only for completion of investigations but also for recovery of weapons allegedly used in commission of the crime.

(ii) The Appellants, who are granted anticipatory bail shall not contact the Complainant or any witnesses associated with the case nor shall tamper with the evidence.

(iii) The Appellants, who are granted anticipatory bail shall remain present in the Trial Court on each date of hearing unless exempted from personal appearance.

9) With the above directions both the Appeals are disposed of.

[SANDEEP V. MARNE, J.]