

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPEAL NO. 480 OF 2024**

Tejas s/o. Babaso Shinde }*Appellant*

: *Versus* :

The State of Maharashtra & Anr. }....*Respondents*

WITH

CRIMINAL APPEAL NO. 481 OF 2024

Pranav S/o. Vishnu Shinde }*Appellant*

: *Versus* :

The State of Maharashtra & Anr. }....*Respondents*

Mr. Amol Jagtap, *for the Appellant.*

Ms. Shilpa K. Gajare-Dhumal, *APP for the Respondent-State.*

Ms. Priyanka Chavan, *Advocate appointed for Respondent No.2.*

PSI, Mr. Laxman T. Sargar, Vadgaon Police Station, Kolhapur present.

CORAM : SANDEEP V. MARNE, J.

Dated : 19 August 2024.

P.C. :

1) Appeal No.481/2024 is not on board. The same is taken on board at the request of the learned counsel for the Appellants and with the consent of the learned APP and learned counsel appearing for Respondent No.2.

2) These Appeals filed under the provisions of Section 14A of the Scheduled Caste and Scheduled Tribes (Prevention of

Atrocities) Act, 1981 (**S.C.S.T. Act**) challenge the orders dated 21 March 2024 passed by the Special Judge (Atrocity Act) Additional Sessions Judge, Kolhapur rejecting applications for grant of pre-arrest bail under the provisions of Section 438 of the Code of Criminal Procedure, 1973 (**Code**) in connection with C.R. No.123/2024 registered with Vadgaon Police Station for the offences punishable under Sections 143, 147, 148, 149, 323, 3245, 326, 327, 504, 506 of the Indian Penal Code and under Section 3(1)(r)(s), 3(2)(va), 3(2), 3(v) of the S.C.S.T. Amendment Act, 2015.

3) The prosecution story in brief is that the Complainant, and six to seven persons accompanying him were assaulted by the seven accused who are named in the FIR. It is alleged that the Appellants herein used iron rod for assaulting the Complainant. On the other hand, there appears to be a cross-complaint at the behest of the accused in which the Complainant is made an accused. *Prima-facie*, it appears that this is a case of group fight in which possibly the Complainant has suffered injuries.

4) Perusal of the FIR would indicate that the role ascribed to the Appellant-Pranav Shinde is about blow given to the Complainant in his back by use of iron rod. So far as Appellant, Tejas Shinde is concerned, the FIR does not ascribe any specific role to him. However, in the statement of the Complainant recorded under Section 164 of the Code, it is claimed that the Complainant was allegedly assaulted by Tejas Shinde with iron

rod on his hand resulting in a fracture. Perusal of the injury certificate would indicate that most of the other injuries suffered by the Complainant are simple. So far as injury on the left elbow is concerned, the exact nature of injury described in the Certificate is not legible.

5) So far as application of S.C.S.T. Act is concerned, caste based utterances are ascribed only to accused-Sandeep Patil. So far as the present Appellants are concerned, there is no specific role attributed to them with regard to any caste based utterances. The Appellants are on interim protection granted by this Court on 9 May 2024. With a view to assist the investigating agency in completing the investigations, this Court directed both the Appellants to remain present before the Investigating Officer from 5 August 2024 to 9 August 2024 every day between 11 a.m. to 4 p.m. It appears that both the Appellants have accordingly remained present before the Investigating Officer and have cooperated with completion of the investigations.

6) The learned APP would submit that though the Appellants have remained present before the Investigating Officer during 5 August 2024 to 9 August 2024, the weapons used during commission of crime have not been recovered at the instance of the Appellants and therefore their custodial interrogation in the present case is necessary. In my view, considering the fact that the Appellants are on interim protection granted by this Court

since 9 May 2024 coupled with co-operation extended by them for completion of investigations, their custodial interrogation at this juncture does not appear to be necessary.

7) *Prima-facie*, this appears to be a case of group fight which has possibly resulted in injuries to the Complainant who is also accused of committing assault on the accused in the separate FIR. In my view, therefore the interim protection granted in favour of the Appellants deserves to be made absolute considering the fact that no caste based utterances are ascribed to both the Appellants and therefore bar under the provisions of Section 18 of the S.C.S.T. Act would not be attracted in the present case.

8) The Appeals accordingly succeed and I proceed to pass the following order :

(i) Orders dated 25 March 2024 passed by the Special Judge (Atrocity Act) Additional Sessions Judge, Kolhapur are set aside.

(ii) In the event of arrest of the Appellants, Tejas Babaso Shinde and Pranav Vishnu Shinde, they shall be released on bail on executing P.R. Bond in the sum of Rs.25,000/- each with one or two solvent sureties in the like amount.

(iii) Appellants shall co-operate with the Investigating Officer and shall remain present for investigation immediately upon requisition to that effect.

(iv) Appellants shall not attempt to contact the Complainant or any of the witnesses associated with the case nor shall attempt to tamper with the evidence.

(v) Appellants shall attend on every date of hearing before the Trial Court unless exempted.

(vi) Appellants shall furnish their contact details, identity and address proof of themselves and two blood relatives while furnishing sureties.

9) With the above directions, both the Appeals are **allowed and disposed of.**

[SANDEEP V. MARNE, J.]

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