

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

CRIMINAL APPEAL NO.695 OF 2024

Sonu @ Pravin Vishnu Andhare &
Shankar Eknath Sutar

....Appellants

V/S

The State of Maharashtra & Anr.

....Respondents

Mr. Ghansham Jadhav *for the Appellants.*

Ms. Anuja S. Gotad, APP *for Respondent No.1/State.*

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

Mr. Y.M. Golande, PC, Indapur Police Station present in Court.

CORAM: SANDEEP V. MARNE, J.

DATE : 30 JULY 2024.

P.C.:

1 This is an Appeal filed under provisions of section 14A of the Scheduled Casts and Scheduled Tribes (Prevention of Atrocities) Act, 1989 (**SC & ST Act**) challenging order dated 20 June 2024 passed by Additional Sessions Judge, Baramati, rejecting application filed by the Appellants for grant of bail under section 439 of the Code of Criminal Procedure, 1973 (the **Code**) in connection with Crime No. 423 of 2024 registered at Indapur Police Station, District Pune, for offences punishable under sections 143, 147, 148, 149, 324, 504, 506 of the Indian Penal Code, 1860 (**IPC**), sections 3(1)(r)(s), 3(2)(va) and 6 of the SC & ST Act and section 7(1(d) of the Protection of Civil Rights Act, 1955.

2 The prosecution story in brief is that – on 5 May 2024 the Complainant was abused by accused No.1-Rohit Kshirasagar and some altercations took place between the duo. On 11 May 2024, accused No.1-Rohit Kshirasagar arrived with a sickle in his hand alongwith five unknown persons, two of whom were carrying iron rods and three were carrying wooden logs. That accused No.1-Rohit Kshirasagar hit the complainant with sickle on his head and when he raised his hand to save himself, Complainant suffered injuries on his left hand and the head. At that time, unknown five persons assaulted the Complainant with iron rods and wooden sticks. It is further alleged that while the Complainant was fleeing from the spot, accused No.1 chased and abused him with reference to his caste.

3 I have heard Mr. Jadhav, the learned counsel appearing for Appellants, who would submit that the accused are not the authors of injuries suffered by Complainant. That all the offences under Indian Penal Code are bailable. That the FIR does not contain any allegation with regard to caste-base abuses by Appellants and that therefore the offences under SC & ST Act do not relate to them. That accused Nos.2 and 3 are already granted interim protection by this Court in Criminal Appeal No.678 of 2024. That the entire role in the incident is ascribed to accused No.1. That the Appellants have also spent two months in custody and considering the nature of allegations levelled against them, they deserve to be enlarged on bail.

4 Ms. Chavan, the learned counsel, appointed by this Court from the panel of Legal Aid Advocates to represent Respondent No. 2, would

oppose the Appeal submitting that Appellants are named in Complainant's supplementary statement. That there is a specific allegation of Appellants assaulting Complainant. That what is granted to accused Nos. 2 and 3 is merely interim protection by this Court. That both the Appellants are residents of Indapur and therefore there is high degree of possibility of they indulging in pressurizing the Complainant. She would therefore pray for dismissal of the Appeal.

5 Ms. Gotad, the learned APP appearing for Respondent No.1-State would also oppose the Appeal submitting that the sickle used for commission of crime is yet to be recovered. That there are specific allegations against Appellants and Complainant has identified them in his supplementary statement. She would therefore submit that since the Complainant is attacked without any reason by six persons by use of various weapons, the Application for Bail filed by the Appellants deserves to be rejected.

6 I have considered the submissions canvassed by the learned counsel appearing for parties and have gone through the impugned order as well as the documents placed on record. Perusal of the FIR dated 11 May 2024 would indicate that the Appellants were initially not named by Complainant. However, in the supplementary statement dated 11 May 2024 he has named Appellants. It appears that statements of three eyewitnesses are also recorded, in which it is stated that only one person was carrying sickle and the rest were carrying wooden logs. This would

prima facie contradict the Complainant's version that two accused were carrying iron rods. Perusal of the injury certificate would also indicate that only two simple injuries on front side of the forehead and back is caused by hard and blunt object.

7 The main allegation is against accused No.1-Rohit Kshirasagar who was allegedly carrying sickle and allegedly assaulted Complainant with the said sickle. So far as the Appellants are concerned, the allegation is about assault by wooden sticks. All the offences alleged under the Indian Penal Code against the Appellants are bailable. The caste-based abuses are attributable solely to accused No.1 and the Appellants are apparently not associated with the allegation of caste-based abuses. Still they have been in custody for the last more than two months.

8 Investigations in the crime are already complete and charge-sheet has been filed on 23 July 2024. The Trial is not likely to be concluded in near future. Therefore, further incarceration of Appellants is not warranted. Considering the nature of allegations and the role as ascribed to Appellants, in my view they deserve to be enlarged on bail.

9 The Appeal accordingly succeeds and I proceed to pass the following order:

ORDER

i) Order dated 20 June 2024 passed by Additional sessions Judge, Baramati, District Pune, is set aside.

ii) Appellants shall be released on bail in connection with Crime No.423 of 2024 registered with Indapur Police Station for the offences punishable under sections 143, 147, 148, 149, 324, 504, 506 of the Indian Penal Code, sections 3(1)(r)(s), 3(2)(va) and 6 of the SC & ST Act and section 7(1(d) of the Protection of Civil Rights Act, on furnishing P.R. Bond in the sum of Rs.25,000/- with one or two solvent sureties in the like amount. Appellants shall have time of four weeks to furnish PR Bond and sureties

iii) The Appellants shall furnish identity and address proof of themselves and of their two blood relatives while furnishing sureties.

iv) The Appellants shall not pressurize Complainant or any other witnesses acquainted with the facts of the case nor shall tamper with the evidence either directly or indirectly.

v) The Appellants shall attend each date of hearing before the Trial Court, unless exempted.

10 With the above directions, the Criminal Appeal is **allowed and disposed of.**

(SANDEEP V. MARNE, J.)

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by SUDARSHAN
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