



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR

CRIMINAL APPEAL NO. 142 OF 2024

APPELLANT:

(Ori. Applicant)

Dinanath @ Akshay Devendra Belkhode,
Aged about 25 years, Occu: Business,
R/o Plot No. 1 Sarkar Nagar,
Behind Chavhan Colony,
Chandrapur, Tq. and District Chandrapur.

...V E R S U S...

RESPONDENTS

1] State of Maharashtra,
through Police Station Officer,
P.S. Gondpipri, Tq. Gondpipri
and District Chandrapur.

(Ori. Complainant) 2]

Tarun s/o Gangaram Umre,
Aged about 40 years, Occu- Social Worker,
R/o at Village Tarda, Tq. Gondpipri,
District Chandrapur.

Mr. S.A. Mohta, counsel for appellant.

Mr. U.R.Phasate, APP for Respondent No.1.

Ms. C.S.Bhute, counsel (appointed) for respondent No.2.

CORAM : **URMILA JOSHI-PHALKE, J.**

DATE : **08/05/2024**

ORAL JUDGMENT :

1. **Admit.** Heard finally with the consent of learned
counsel appearing for the parties.

2. By preferring this appeal, the appellant has
challenged the order dated 21/02/2024 passed by the Additional

Sessions Judge and Special Court, Chandrapur in Misc. Criminal Bail Application No. 76/2024. The appellant is apprehending the arrest at the hands of police, as crime is registered vide Crime No. 360/2023 for the offences punishable under Sections 307, 326, 341, 143, 147, 148, 504, 506 read with Section 149 of the Indian Penal Code, 1860, and Section 3(2)(V) of the Scheduled Caste and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 (for short 'the Atrocities Act').

3. The accusation against the present appellant is on the basis of report lodged by Tarun Gangaram Umre alleging that there is a sand ghat in village Kultha, besides his village, one of the co-accused Swapnil Kashikar had obtained the contract with Akash Sontakke to excavate the sand of this ghat. On 28/12/2023 he went along with the Chairman of Tanta Mukti Samiti of his village towards the sand ghat and found that the co-accused Swapnil Kashikar and his employees excavating the sand on the said Ghat. Therefore, they restrained them, at that time, all the co-accused assaulted him by wooden sticks and iron rod as well as assaulted his companion and caused injuries to them. On the basis of said report, police have registered the crime against the present appellant.

4. Learned counsel for the appellant submitted that as far as the present appellant is concerned, his name is not mentioned in the First Information Report (FIR), only because there are criminal antecedents, his prayer for grant of pre-arrest bail is rejected. There is no specific role attributed to him either in the FIR or the statement of the witnesses. In view of that, the interim protection granted to the appellant, deserves to be confirmed.

5. Learned APP and learned appointed counsel for the respondent No.2 submitted that from the statements of the witnesses, the involvement of the present appellant is revealed. There are criminal antecedents against him. In view of that, interim protection granted to the present appellant deserves to be cancelled.

6. After hearing learned counsel for the appellant, learned APP for the State and learned appointed counsel for respondent No.2. It reveals that as far as the present appellant is concerned, his name is not mentioned in the FIR. No specific role is attributed to him. Even none of the witness has attributed specific role to the present appellant. As prima-facie case is not made out against the present appellant, therefore, bar under

Section 18A of the Atrocities Act is not attracted. In view of that, the interim protection granted to the present appellant deserves to be confirmed. Accordingly, I proceed to pass following order :

- a) The criminal appeal is **allowed**.
- b) In the event of arrest, the appellant – Dinanath @ Akshay Devendra Belkhode is released on anticipatory bail in connection with Crime No. 360/2023, registered with Police Station Gondpipri, District Chandrapur for the offence punishable under Sections 307, 326, 341, 143, 147, 148, 504, 506 read with Section 149 of the Indian Penal Code and Section 3(2)(v) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989, on executing PR. bond in the sum of Rs.25,000/- with one solvent surety in the like amount.
- c) The order passed by the learned learned Additional Sessions Judge and Special Court, Chandrapur dated 21/02/2024 is hereby quashed and set aside.
- d) The appellant shall attend the concerned Police Station as and when required for the investigation purpose.

- e) The appellant shall not directly or indirectly make any inducement, threat or promise to any witness who are acquainted with the facts of the case.
- f) The fees of the appointed counsel be quantified as per the Rules.

The Criminal Appeal is **disposed of** accordingly.

[URMILA JOSHI-PHALKE, J.]