



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

CRIMINAL APPEAL NO.311/2024

Pranay Shyam bawankule and another

Vs.

State of Maharashtra through S.D.P.O., Kamptee Division, Police Station Kanhan,
Nagpur Gramin, Dist. Nagpur and another

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Shri A.G. Hunge, Advocate for appellant
Ms Soniya Thakur, APP for respondent No.1/State
Shri K.J. Rawandhe, Advocate for respondent No.2

CORAM : URMILA JOSHI-PHALKE, J.
DATED : 24/07/2024

Heard.

2. **Admit.**

3. Appeal is admitted to the extent of the appellant No.2 is concerned.

4. Apprehending the arrest at the hands of police, in connection with Crime No. 312/2024 registered with Police Station Kanhan, Nagpur Gramin, District Nagpur for the offence punishable under Sections 307, 294, 323, 326, 504 read with Section 34 of the Indian Penal Code, 1860 and under Sections 3(1) (r) (s), 3(2) (v), 3(2) (v) (a) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 (for short 'the Atrocities Act').

5. The appellants had filed an application for anticipatory bail before the Special Court, Nagpur

bearing No.1348/2024. After considering the prima facie evidence against the appellants and considering the bar under Section 18-A, the Special Court i.e. Additional Sessions Judge, 8, Nagpur has rejected the application.

6. Being aggrieved I dis-satisfaction with the same, present appeal is preferred by the appellants on the ground that learned Special Court has erroneously held that there is a bar though there is no averments that the present informant belongs to the Scheduled Caste and in spite of that he was assaulted by the present appellants. Another ground raised by the appellants is that due to the previous enmity, they were implicated falsely. In fact no such incident has taken place and, therefore, bar under Section 18-A is not attracted.

7. Learned Counsel for the appellants submitted that report is lodged by Jaywant Haridas Thorat, alleging that he and the appellants are the neighbours and there was a previous dispute between them. On 06/05/2024, there was a hot exchange of words between them, and on that count, the present appellants i.e. appellant No.1 given a blow of rod on his head and appellant No.2 has assaulted him by means of fist and kick blows. On the basis of said report, police have registered the crime.

8. During submissions, learned Counsel for the appellants submitted that he is withdrawing the

application as far as appellant No.1 is concerned. The appellant No.2 against whom only allegation is that he has assaulted by fist and kick blows, therefore, his custodial interrogation is not required. There is no averments that despite the knowledge that the informant belongs to the SC, he was assaulted and, therefore, the bar under Section 18-A is not attracted.

9. Learned APP and learned appointed Counsel strongly opposed the said appeal on the ground that there is a *prima facie* case and in furtherance of the common object, the appellant No.2 has assaulted the old man who is the informant and he has sustained grievous injury. In view of that the appeal deserves to be dismissed.

10. After hearing the learned Counsel for the appellants and learned APP for State as well as learned Counsel for the respondent No.2, perused the entire investigation papers from which, it reveals that admittedly, there is no averments as far as the contention regarding that the informant belongs to SC and despite the knowledge, he was assaulted by the present appellants. As far as appellant No.2 is concerned, only allegation against him is that he assaulted, the informant by kick and fist blows. Considering the role attributed to the appellant No.2 and the overt-act is attributed to him, there is no allegation that either he was having knowledge that informant belongs to SC or ST he assaulted the informant, therefore, the bar under Section 18-A is not

attracted. Considering the role attributed to the appellant No.2, the interim protection granted to him is confirmed with the similar condition.

11. The appeal as regards to the appellant No.1 is disposed of as withdrawn. The appeal is disposed of.

JUDGE

R.S. Sahare