



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

CRIMINAL APPEAL NO. 85 OF 2025

**VINOD IRBHAJI PANCHAL AND OTHERS
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS**

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Advocate for Appellants : Mr. Shinde Dhananjay M.
APP for Respondent No.1 and 2/State : Mr. K.K. Naik

Advocate for Respondent No.3 : Mr. Aditya Lokhande h/f Mr. Kale Amol

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CORAM : SHAILESH P. BRAHME, J.

DATE : 17th APRIL 2025

PER COURT :

. Being aggrieved by rejection of pre-arrest bail, Appellants are before this Court. They are apprehending arrest in pursuance of offence bearing C.R. No.699/2024 registered with Akhada Balapur Police Station, Taluka Kalamnuri, District Hingoli punishable under Sections 181(1), 189(2), 296, 351 of Bhartiya Nyaya Sanhita, 2023 and under Sections 3(2)(va), 3(1)(s), 3(1)(r) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act.

2. Pending appeal, Appellants were granted interim protection by order dated 06.02.2025. Respondent Nos.1 and 2 did not complain about the breach of conditions.

3. First Information Report shows that Appellants alongwith other accused persons quarreled with the Informant and his

companions on 26.11.2024. They abused him on caste and bet them by fists and blows. Thereafter Informant and his companions were taken to Devdi and again assaulted and threatened.

4. Learned Counsel for the Appellants submits that Appellant No.2 – Lankesh belongs to scheduled caste and therefore the offence under the Atrocities Act, cannot be attracted. The allegations on caste abused, are in chorus which are inherently improbable. It is submitted that no specific role is attributed to the Appellants. There is absence of any motive to insult Informant on caste.

5. Learned APP tenders on record relevant papers of the investigation. He would point out the statement of eye-witness – Arvind and that of Sudam. It is submitted that statement of Sudam is in the nature of confession which has to be relied upon. My attention is also adverted to the injury certificate which corroborates the incident in question. It is submitted that vehicle is yet to be recovered from the Appellants.

6. Learned Counsel for the Respondent No.3 adopts the submissions of learned APP. Additionally he submits that the Informant and the Appellants were knowing each other. There was previous enmity and strategically by forming unlawful assembly, he was abused on caste and assaulted. It is submitted that offence took place within public view.

7. I have considered rival submissions of the parties. So far as

the Appellant No.2 – Lankesh is concerned as he belongs to scheduled caste, the offence under the Atrocities Act, cannot be made applicable to him. To that extent, appeal succeeds.

8. The casteist abuses as alleged in the FIR are in chorus which is improbable. I draw support for this finding from the judgment of the Division Bench in the matter of Yogesh and Another Vs. State of Maharashtra. Another submission of the Appellants that there is lack of intention merits consideration in view of judgment in the matter of **Hitesh Verma Vs. The State of Uttarakhand and Ors.**, AIR 2020 SC 5584 and specially the principles laid down in paragraph no.18.

9. Although there are statements of Arvind and Sudam, pre-arrest protection cannot be denied merely relying on their statements. Injury certificate shows simple injury. In my view, the overtact is not serious in nature.

10. Impugned order passed by the learned Sessions Judge is silent regarding above aspect of the matter. It is vulnerable and liable to be quashed. Hence I pass following order :

ORDER

(a) Criminal Appeal is allowed and the impugned order is quashed and set aside.

(b) The interim order of pre-arrest protection granted on 06.02.2025 stands confirmed.

(c) Appellants shall abide the conditions imposed by the order dated 06.02.2025.

SHAILESH P. BRAHME
JUDGE

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