



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

63 CRIMINAL APPEAL NO. 86 OF 2025

**ABHIJIT ASHOKRAO MASKE AND OTHERS
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS**

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Advocate for Respondent No.3 : Mr. Rohit Narwade
Advocate for the Appellant : Mr.Kale Amol Gangadharrao
APP for Respondent/State : Mr.S.M.Ganachari

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CORAM : SHAILESH P. BRAHME, J.
DATE : 15th APRIL 2025

PER COURT :

. Appellants are already protected by interim order dated 01.04.2025. Respondents do not allege breach of conditions imposed vide order dated 01.04.2025.

2. First Information Report shows that incident in question is road robbery and assault having been committed by the appellants at 08:00 pm in the outskirts of village Kanka. Appellants and the informant were knowing each-other, being resident of same place. Appellant Nos.2 and 3 belong to Scheduled Tribe.

3. Learned counsel for the appellants submits that no offence is made out to allege that overt act has been committed within a public view. It is submitted that there was no motive.

4. Learned APP tenders on record papers of investigation to point out statement of eye witness Uttam Keshavrao Mundhe and statements of informant under Section 183 of B.N.S.S,2023 and the injury certificate of the informant. It is submitted that there is prima facie material against the appellants and their presence can not be disputed. It is further submitted from the spot panchnama that the spot in question was within public view.

5. Learned counsel for Respondent No.3 adopts the submissions of learned APP. Additionally, it is submitted that appellants and the informant were knowing each other. Respondent No.3 had received amount of Rs.15000/- sent by his son for his maintenance. With premeditation, the informant was taken to remote place and robbed.

6. Appellants Nos.2 and 3 belong to scheduled tribe. Hence, offence under The Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 is not attracted. Spot panchnama as pointed out by learned APP shows that the place of incident is in agricultural field of village Kanaka. Considering four boundaries stated in the panchnama and the time of occurrence, I am of the considered view that it was not within public view.

7. There is some substance in the submissions of learned APP that considering the statements of eye-witness Uttam Keshavrao Mundhe and injury certificate, involvement of the appellants can not be ruled out. However, at the most offence under B.N.S.,2023 can be

attracted. The submissions of learned counsel for the appellants that there is absence of motive merits consideration. Considering overall circumstances, I am inclined to allow the appeal. Hence, I pass following order :

ORDER

- i) Criminal Appeal is allowed and the impugned order dated 18.01.2025 passed by Additional Sessions Judge, Hingoli, Dist. Hingoli below Exhibit-1 in Criminal Bail Application No.627 of 2024 is quashed and set-aside.
- ii) Interim order dated 01.04.2025 stands confirmed with the modification that conditions imposed therein shall be abided by appellants till filing of charge-sheet.

[SHAILESH P BRAHME, J.]