



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

50 CRIMINAL APPLICATION NO.1286 OF 2024

Rushikesh Sadhu Suryawanshi,
Age 18 yrs., Occ. Education,
R/o Nagarsoga, Tq. Ausa,
Dist. Latur.

... Applicant

... Versus ...

- 1 The State of Maharashtra
Through Police Station, Ausa,
Tq. Ausa, Dist. Latur.
- 2 Tejas Digambar Adsule,
Age 21 yrs., Occ. Labour,
R/o Nagarsoga, Tq. Ausa,
Dist. Latur.

... Respondents

...

Mr. R.K. Ashtekar, Advocate for applicant

Mr. S.A. Gaikwad, APP for respondent No.1

Mr. N.R. Shaikh, Advocate (appointed through Legal Aid) for respondent

No.2

...

CORAM : SMT. VIBHA KANKANWADI &
SANJAY A. DESHMUKH, JJ.

DATE : 29th APRIL, 2025

ORDER : (PER : SMT. VIBHA KANKANWADI, J.)

1 Present application has been filed initially for quashing First Information Report vide Crime No.17/2023 dated 11.01.2023 registered with Police Station, AUSA, Tq. AUSA, Dist. Latur, for the offence punishable under Sections 452, 327, 354-A, 143, 147, 504, 506 read with Section 149 of the Indian Penal Code, 1860 and Sections 3(1)(r), 3(1)(s), 3(2)(va) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 and later on by way of amendment for quashing the proceedings in Juvenile Criminal Case No.222/2023 pending before learned Principal Judge, Juvenile Justice Board, Latur.

2 Heard learned Advocate Mr. R.K. Ashtekar for applicant, learned APP Mr. S.A. Gaikwad for respondent No.1 and learned Advocate Mr. N.R. Shaikh appointed through Legal Aid to represent the cause of respondent No.2.

3 Learned Advocate for applicant has taken us through entire charge sheet. Applicant is only 18 years and 02 months old. First Information Report has been lodged against 32 persons. Even persons aged 73 and 65 have also been made as an accused. Original accused No.1 is in fact, a minor. In First Information Report present applicant has been referred

as 'Rushi Suryawanshi', thereby name of his father has not given. A supplementary statement of informant has been recorded on 11.01.2023, wherein he has stated that in First Information Report he has given name of two persons as 'Rushi Suryawanshi' and 'Rushikesh Suryawanshi'. Both persons are resident of their village. Rushi Suryawanshi's full name is Rushi Balaji Suryawanshi, however, Rushikesh Suryawanshi was not present when the incident of assault and abuses in the name of caste were given to him. Full name of present applicant is Rushikesh Sadhu Suryawanshi. One more supplementary statement of informant has been recorded on 11.07.2023, wherein he states that full name of Rushikesh Suryawanshi is Rushikesh Sadhu Suryawanshi and he had wrongly given it in his supplementary statement as Rushi Balaji Suryawanshi. Thus, it can be seen that informant is taking U turn from his earlier statements. In statements of eye witnesses, name of only one person is taken out of those two Rushi Suryawanshi and it is stated that he is Rushi Balaji Suryawanshi. Supplementary statements of those witnesses have not been recorded. Under such circumstance, when identity of applicant has not been even *prima facie* established, he cannot be asked to face the trial.

4 Per contra, learned APP as well as learned Advocate appearing for respondent No.2, who came to be appointed through Legal Aid, have

strongly opposed the application and submitted that whatever confusion is there can be cleared at the time of trial. Now, charge sheet is produced, which shows that there is involvement of one Rushi Suryawanshi.

5 Here, it is to be noted that informant has come with a case that he was knowing all 32 accused persons by name, as they are from the same village. Under such circumstance, he cannot now take U turn. At one place in First Information Report he states the name at Sr.No.7 as 'Rushi Suryawanshi' and at Sr.No.13 'Rushikesh Suryawanshi'. Name of father of both these persons was not given. On the next day of First Information Report itself his supplementary statement has been recorded, in which he states that Rushi Suryawanshi and Rushikesh Suryawanshi are two different persons from his village. The person who had assaulted him, abuses him in the name of caste and threatened him is Rushi Balaji Suraywanshi and Rushikesh Suryawanshi (whose full name is still not given) was not present at the spot when the incident took place. Thus, the informant is rather taking back the allegations against Rushikesh Suryawanshi. However, after a six months period his another statement has been recorded on 11.07.2023, wherein, now he states that Rushi Balaji Suryawanshi's full name is Rushikesh Sadhu Suryawanshi. He has not given any explanation in respect of Rushikesh Suryawanshi in his First Information Report and the earlier

statement. Statements of eye witnesses would show that name of accused No.7 (as mentioned in their statements) is Rushi Balaji Suryawanshi. If two persons have resembling name are stated to be involved, then there has to be precaution by Investigating Officer as to exactly who was present there. No Test Identification Parade has been taken for establishing the identity of applicant. Under such circumstance, it would be an abuse of process of law if applicant is asked to face the trial. We do not appreciate the statement that it would be for the trial Court to decide the exactly who was present there. In fact, it is the job of Investigating Officer, which cannot be left as a part of trial. An innocent person cannot be asked to face the trial without there being any establishment of his identity. Hence, following order.

ORDER

- i) Criminal Application stands allowed.
- ii) The proceedings in Juvenile Criminal Case No.222/2023 pending before learned Principal Judge, Juvenile Justice Board, Latur arising out of First Information Report vide Crime No.17/2023 dated 11.01.2023 registered with Police Station, Ausa, Tq. Ausa, Dist. Latur, for the offence punishable under Sections 452, 327, 354-A, 143, 147, 504, 506 read with Section 149 of the Indian Penal Code, 1860 and Sections 3(1)(r), 3(1)(s),

3(2)(va) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989, stands quashed and set aside as against applicant viz. **Rushikesh Sadhu Suryawanshi.**

(SANJAY A. DESHMUKH, J.)

(SMT. VIBHA KANKANWADI, J.)

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