



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

CRIMINAL APPEAL NO. 201 OF 2025

**RAJKUMAR JIVRAJ JAIN
VERSUS
THE STATE OF MAHARASHTRA AND ANOTHER**

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Advocate for Appellant : Senior Counsel Mr. V.D.Hon i/by
Mr. Kawade Shrikant G.

APP for Respondent No.1/State : Mr. S.M. Ganachari

Advocate for Respondent No.2 : Mr. Devakate Anant Ramahari

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CORAM : SHAILESH P. BRAHME, J.

DATE : 29th APRIL 2025

PER COURT :

. Appellant takes exception to judgment and order dated 14.01.2025 passed below Exhibit-1 in Criminal Bail Application No.74/2024, rejecting his application for pre-arrest bail in furtherance of C.R. No.255/2024 registered with Paranda Police Station, Dist. Dharashiv for offences punishable under Sections 118(1), 115(1), 189(2), 189(4), 190, 191(2), 191(3), 333, 324(4), 76, 351(3), 352 of Bhartiya Nyaya Sanhita, 2023 and under Sections 3(1)(o), 3(1)(r), 3(1)(s), 3(1)(w)(i) of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act.

2. The incident in question occurred on 25.11.2024 at Kapilapuri, Taluka Paranda, District Dharashiv which was reported by Respondent No.2 who belongs to scheduled caste. It was aftermath

Assembly Election's result. Appellant with – co-accused are alleged to have approached the Informant and abused and threatened him on the count of casting vote against the candidate of perpetrators. It is alleged that Appellant abused the Informant on caste and assaulted by iron rod on his hand, head and back. It is further alleged that when Informant's friend Yashwant intervened, he was also abused on caste and beaten by iron rod on his head, hand and back. It is mentioned in the F.I.R. that few people were having bottles containing petrol and threatening to set the house of members of scheduled caste ablaze.

3. Learned Senior Counsel Mr. V.D. Hon for the Appellant submits that his client is falsely implicated in the offence. The incident in question did not take within public view. As the Appellant was in prestigious position, he has been targeted by registering offence. He would further submit that allegations are exaggerated. It is further submitted that investigation is almost over and need for custodial interrogation as such does not exist.

4. Learned APP Mr. Ganachari tenders on record papers of investigation. He would advert my attention to the statement of injured witnesses namely Yashwant, Rekha, Mohini who are eye-witnesses. He has adverted my attention to their injury certificates which show their presence at the time of incident. He would vehemently rely on the statements of Avinash and Siddhesh who are independent witnesses. The statement of witnesses are in consonance

with prosecution theory. My attention is also adverted to supplementary statement of the Informant recorded on 20.12.2024, to show that even the accused persons named therein were carrying bottles containing petrol. It is submitted that weapon used by the Appellant has been recovered. The spot panchanama discloses that the incident occurred within public view. Learned Sessions Judge is justified in rejecting pre-arrest bail of the Appellant.

5. Learned Counsel Mr. Devakate for Respondent No.2 adopts the submissions of learned APP. Additionally he places on record F.I.R. of C.R. No.109/2023 registered with Madha Police Station, Solapur against various persons including the present Appellant to show his antecedents and conduct. It is submitted that besides Section 3(1)(r) (s) of the Prevention of Atrocities Act, allegations for offence under Section 3(1)(o) are also made. Prima facie, very strong case is made out for the said offence as the incident took place immediately after the result of Assembly Election.

6. I have considered the rival submissions of the parties. I have gone through the papers of investigation carefully.

7. It transpires from record that Informant, Yashwant, Rekha, Mohini are the injured eye-witnesses. Injury certificate of Yashwant discloses two simple injuries. The certificate of Informant shows three simple injuries. Besides that Avinash, Siddhesh and Omkar are the eye-witnesses. Learned APP is right in contending that as the

witnesses are injured, therefore their presence cannot be disputed and they are required to be treated as eye-witnesses. Under normal course of circumstances, account given by the eye-witnesses that too injured one, would have been accepted. However minute perusal of the statements would disclose altogether different picture.

8. The Informant and Yashwant are consistent that the casteist allegations were made by the Appellant only. Whereas the other witnesses like Avinash, Siddhesh, Omkar, Rekha and Mohini state that the allegations on caste were hurled in chorus not only by the Appellant, but by number of other co-accused. The version of the injured eye-witnesses and so called independent witnesses namely Avinash, Siddhesh, Omkar, Rekha and Mohini are inconsistent with the version of the Informant and Yashwant. The inconsistency is material in nature and cannot be overlooked. The statements are shrouded with suspicious.

9. The supplementary statement of the Informant was recorded on 20.12.2024 in which he sought to add specific names of the persons who were holding bottles having petrol. F.I.R. already discloses that few people were holding bottles containing petrol which is sought to be further clarified by the supplementary statement. However independent eye-witnesses and injured eye-witnesses do not support this particular fact. It is incomprehensible as to why none of them could state that few persons were carrying bottles containing petrol. This is another circumstance which creates

doubt on the prosecution case.

10. The submission of learned APP that the incident in question took place within public view as well as the submission of learned Counsel Mr. Devakate that a case is made out for offence under Section 3(1)(o) of the Prevention of Atrocities Act have some substance. But due to the inconsistencies in the prosecution theory that too at the instance of eye-witnesses, entire prosecution case appears to be either exaggerated or false. This Court cannot be oblivious of the fact that immediately after declaration of the result of the Assembly Election, the incident in question took place. In all probabilities, the incident in question is having political overtures. Under these circumstances, the false implication of the Appellant cannot be ruled out. Considering the nature of injuries and the nature of allegations, I am of the considered view that liberty of the Appellant needs to be protected. Appellant is having an antecedent. Therefore instead of rejecting his pre-arrest protection, it would be sufficient to impose strict conditions upon him.

11. The above observations are prima facie in nature.

12. I find that impugned judgment and order is unsustainable. I, therefore pass following order :

ORDER

(a) The Criminal Appeal is allowed.

(b) The impugned judgment and order is quashed and set aside.

(c) In the event of arrest of the Appellant in furtherance of C.R. No.255/2024 registered with Paranda Police Station, Dist. Dharashiv, he shall be released on bail on furnishing P. R. bond of Rs.50,000/- with one solvent surety on following conditions :

(i) Appellant shall cooperate the Investigating Agency and report the concerned Police Station on every Saturday between 12:00 pm. to 05:00 pm. and also apprise the Investigating Officer about his whereabouts.

(ii) Save and except reporting the police station, he shall not enter prohibited area.

(iii) Appellant shall stay away from entire Dharashiv and Solapur District till filing of the charge-sheet and thereafter for further period of four weeks.

(iv) Appellant shall not contact the prosecution witnesses or tamper the prosecution witnesses.

**SHAILESH P BRAHME
JUDGE**

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