



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPEAL NO. 381 OF 2024

SUNIL LOTAN JADHAV AND ANOTHER

VERSUS

THE STATE OF MAHARASHTRA AND OTHERS

WITH

CRIMINAL APPEAL NO. 380 OF 2024

PRATIK SATISH KUWAR AND OTHERS

VERSUS

THE STATE OF MAHARASHTRA AND OTHERS

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Advocate for Appellants : Mr. Desale N. N.

APP for Respondents-State : Mr. S. M. Ganachari.

Advocate for Respondent No.3 : Mr. Sisodiya Ashutosh C.

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CORAM : SHAILESH P. BRAHME, J.

DATE : 08.05.2025

PER COURT :-

1. Heard both the sides.
2. Appellants in both the appeals are shown to be accused in Crime No.56 of 2024, registered with Sakri Police Station, District Dhule for offences punishable under Sections 307, 354, 141, 142, 143, 147, 149, 323, 504, 506 read with Section 34 of IPC and Sections 3(1)(r), 3(1)(s), 3(1)(w)(ii) of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act at the instance of respondent No.3. Their applications for bail

were rejected by the impugned judgment and order which is cause for them to approach this Court by filing present appeals.

3. Before referring to the first information report, it is necessary to mention that co-accused Anil Jadhav had lodged report bearing Crime No.396 of 2023 on 18.11.2023 against the husband of the informant Pankaj, Pawan Ahire, Chetan Thorat and others in respect of the incident dated 16.11.2023 which had taken place at village Chhail, Taluka Sakri, District Dhule. Charge sheet is filed in that offence and assailants are enlarged on regular bail.

4. Present report is lodged by respondent No.3 on 17.02.2024 disclosing the incident occurred on 14.11.2023 and 16.11.2023. Attempt of molestation on 14.11.2023 does not disclose role of any of the appellants. That was purely against the co-accused Anil Jadhav. On 16.11.2023, the incident took place at two places one at poultry farm and another at bus stand.

5. In the first incident, informant and her husband were abused, assaulted and threatened by the accused Anil. Casteist allegations are attributed to him. As against appellants Pratik and Pravin, allegations are of beating and the threats are

pitted. In the second incident at bus stand, appellants are alleged to have chased husband of the informant, Sarpanch Chetan Thorat. They were armed with weapons. Casteist allegations are attributed to the appellant Sunil and Deepak with the incitement of killing and eliminating informant's husband. Thereafter, her husband was further assaulted by weapon and fists and blows. The incriminating role is again attributed to the co-accused Anil.

6. In this backdrop, learned counsel Mr. Desale for the appellants submits that due to the rivalry and the counter complaints, appellants are impleaded in the offence. The incriminating role has been played by co-accused Anil and comparatively the allegations against the appellants are venial. The casteist abuses in chorus are improbable. My attention is adverted to the statements of Pavan, Pankaj, Vishal and Mahendra to disclose inconsistency with the first information report. Injury certificates of Anil Jadhav and Sunil Jadhav are also pointed out from the charge sheet filed in Crime No.396 of 2023.

7. Learned APP vehemently opposes the submissions. He would submit that appellants have played incriminating role in

the serious offences. To corroborate incident of 14.11.2023 statements of Shakuntala and Chetan are referred to. Learned APP submits that this incident triggered the fight which took place on 16.11.2023. He would advert my attention to statements of witnesses Pawan, Pankaj, Vishal Gaikwad and Vishal More. It is submitted that injury certificate of Pankaj shows grievous injuries which were inflicted with weapon on vital part of the body. It is contended that appellants were armed with the weapon and intention was to eliminate Pankaj.

8. Learned counsel for respondent No.3 supports the submissions of learned APP. Additionally, it is stated that incident on 16.11.2023 is within public view. The injuries were on vital part of the body and the intention was to do away with Pankaj due to rivalry.

9. I have gone through the papers of investigation and first information report in Crime No.56 of 2024 as well as Crime No.396 of 2023. Incident occurred on 14.11.2023 was not within public view and that was in between informant and co-accused Anil Jadhav. First information report does not spell out any role attributed to the appellants or their presence at the relevant time.

10. Incident which took place on 16.11.2023 at bus stand disclosed fight between two groups. Co -accused Anil and Sunil are also assaulted. Their injury certificates show stab injuries and they were required to be treated. Simultaneously, injury certificate of husband of the informant Pankaj discloses grievous injuries on vital part of the body. From the first information report and the statements of the witnesses, no case is made out against present appellants for causing grievous injuries on particular part of the body. In the entire episode, important role is that of co-accused Anil Jadhav.

11. Material on record shows that the casteist allegations were hurled by co-accused in the incident at poultry farm. The threats given by Pratik and Pravin were in chorus in nature. Further casteist abuses at bus stand are by Anil, Sunil, Deepak and Ganesh which are chorus in nature. Incitement is also chorus in nature.

12. Careful perusal of statements of Pawan, Pankaj and Vishal show that informant was not present when free fight took place at bus stand on 16.11.2023. These statements are apparently inconsistent with FIR.

13. Investigation is over and accused in Crime No.396 of 2023 are also enlarged on bail. In that view of the matter, I do not find that the custody of the appellants is required. Appellants were granted interim protection vide order dated 19.04.2024 in both the appeals. Respondents have not made any complaint regarding the conditions imposed by this Court. The case is made out to confirm the interim protection.

14. Impugned judgment and order has not dealt with the above aspect of the matter. I, therefore, pass following order :

ORDER

- (i) Both Criminal Appeals are allowed by quashing and setting aside impugned judgment and order therein.
- (ii) Interim protection granted by order dated 19.04.2024 shall stand confirmed deleting the clause of attendance of the Police Station.
- (iii) Instead of that, the appellants shall stay away from village Chhail for one year and report their whereabouts to the Investigating Officer.

- (iv) They shall not tamper with the prosecution witnesses.

(SHAILESH P. BRAHME, J.)

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