



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

CRIMINAL APPEAL NO. 329 OF 2025

1. Shaikh Ayub s/o. Shaikh Sharif
Age 65 years, Occu. Business,
2. Shaikh Asad s/o. Shaikh Ayub
Age 34 years, Occu. Business,
Both R/o. Jumma Peth, Basmath,
Taluka Basmath, District Hingoli

.. Appellants
(Accused Nos.1 and 2)

Versus

1. The State of Maharashtra
Through District Superintendent of Police,
Hingoli
2. The Police Station Officer,
Basmath City Police Station,
Taluka Basmath, District Hingoli
3. Puja Dnyaneshwar Jogdand,
Age 25 years, Occu. Labour,
R/o. Shinde Pangra, Taluka Basmath,
District Hingoli

.. Respondents

Mr. Akshay R. Dhore, Advocate for Appellants;
Ms. Chaitali Choudhari-Kutti, APP for Respondents No.1 and 2;
Mr. Prakash V. Balkhande, Advocate for Respondent No.3

CORAM : KISHORE C. SANT, J.

DATE : 01-07-2025

PER COURT:-

1. Heard the learned counsel for the appellants, the learned A.P.P. for respondents No.1 and 2 and learned counsel for respondent No.3.

2. The appellants have approached this Court seeking release on bail in the event of their arrest in connection with Crime/FIR No.0238 of 2025 dated 15.04.2025 registered with Basmath City Police Station, Taluka Basmathnagar, District Hingoli, for the offences punishable under Sections 115(2), 296, 351(3), 3(5) of the Bharatiya Nyaya Sanhita, 2023 and Section 2(va) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989.

3. It is alleged in the First Information Report ("FIR") that present appellants are the owners of brick kiln, where the informant and her husband are working as labour. On 14.04.2025 they did not to on the kiln work being 14th April celebration. On 15.04.2025, appellant No.1/ klin owner asked the husband of informant as to why they did not come on the work and went on holiday on 14.04.2025. Though the informant informed the appellants that they would compensate the holiday by working additionally, still accused No.1 caught-hold collar of informant's husband and slapped on his chin and gave kick blows. Both accused held hair of the informant and beaten her as well. The appellants told the informant and her husband that they had taken advance of Rs.50,000/- from the accused and they tried to avoid to repay the amount. While assaulting, it is alleged that the appellants assaulted them and abused in the name of caste. The learned Trial Judge rejected their application seeking bail in the

event of their arrest and, thus, the appellants are before this Court challenging the impugned order rejecting the application for anticipatory bail by the learned Additional Sessions Judge, Basmathnagar, District Hingoli, passed below Exhibit-1 in Criminal Bail Application No.96 of 2025, dated 28.04.2025.

4. Learned counsel for the appellants argued that no specific allegation is seen as to which appellant exactly abused the informant in the name of caste. It is clearly a dispute over the amount which was given as advance to the informant and her husband. Merely because the informant happens to be belonging to Scheduled Caste, there is no reason to attract the ingredients of offence in question. He just prays for release of the appellants on bail.

5. Learned A.P.P. for the State so also the learned counsel for respondent No.3 vehemently opposed the appeal. Learned A.P.P. points out two statements of independent witnesses where some allegation in the first information report are corroborated. F.I.R. it is mainly corroborated on the point of assault by the appellants. One of the eyewitnesses does not support about abuses in the name of caste. The another eyewitness stated that he has seen accused giving abuses in the name of caste. However, in the F.I.R. there was no such specific allegation.

6. Learned A.P.P. further points out the injury certificate, however, the said injury certificate shows that the injuries on the person of the informant are simple. It also shows that there is no external injury found at the time of examination. Though in the history, it was stated that someone has assaulted.

7. The learned Sessions Judge has not considered that there is specific role attributed to any of the appellants. No ingredients of Atrocities Act are *prima facie* attracted. The impugned order, therefore, deserves to be quashed and set aside.

7. After considering the above material, this Court finds that no case under the Atrocities Act is made out. Looking to the injuries, no case is made out of serious offence. The learned trial Judge has failed to appreciate this fact that there is no specific allegation in the F.I.R. as to which of the accused exactly abused the informant in the name of caste. This Court, thus, finds that the case is made out to allow the appeal. Hence, the order:-

ORDER

- i) The criminal appeal is allowed.
- ii) The impugned order passed by learned Additional Sessions Judge, Basmathnagar, District Hingoli, below Exhibit-1 in Criminal Bail Application No.96 of 2025, is quashed and set aside.

- iii) The appellants be released on bail in the event of their arrest in connection with Crime No.0238 of 2025 dated 15.04.2025 registered with Basmath City Police Station, Taluka Basmathnagar, District Hingoli, for the offences punishable under Sections 115(2), 296, 351(3), 3(5) of the Bharatiya Nyaya Sanhita, 2023 and Section 2(va) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989, on furnishing PR bond in the sum of Rs.25,000/- [Rupees Twenty Five Thousand Only] each, with one solvent surety in the like amount on the following conditions;
- (a) They shall not enter the village Basmath, District Hingoli, where the informant resides, except for attending the police station till filing of the chargesheet;
 - (b) They shall furnish their contact details, such as address and mobile numbers to the Investigating Officer;
 - (c) They shall not contact the informant and any of the prosecution witnesses;
 - (d) They shall attend the police station as and when called by the Investigating Officer;
 - (e) In case of breach of any condition, their bail bonds shall be liable to be cancelled.

[KISHORE C. SANT]
JUDGE