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905-APEAL-437-2025 smt

This order is corrected pursuant to speaking to minutes order dated 20.08.2025.

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

905 CRIMINAL APPEAL NO. 437 OF 2025

Rutik Alias Rushikesh Bandu Shembade

VERSUS

The Superintendent Of Police And Others

...

Mr. Sanket Kulkarni i/by Mr. Vishal S. Kadam, Advocate for Appellant.

Smt. M. N. Ghanekar, APP for Respondent-State.

Mr. Mahendra Gondale, Advocate for Respondent No.3.

CORAM : KISHORE C. SANT, J.

DATE : 14th AUGUST 2025.

PC :-

1. Heard Mr. Kulkarni, the learned Advocate for the appellant, Mrs. Ghanekar, the learned APP for Respondent-State, and Mr. Gondale, the learned Advocate for Respondent No.3.

2. The appellant has approached this Court challenging an order dated 2nd May 2025 passed by the learned Special Judge (Atrocity) Beed, thereby rejecting his application passed in application below Exh. 5 in Special (Atrocity) Case No.42 of 2025 and praying for his release on bail

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in the event of arrest in connection with C.R. No. 390 of 2024, registered with Shivajinagar Police Station, Beed, for the offences punishable under Sections 191(2), 190, 189(2), 118(1) of the Bharatiya Nyaya Sanhita and Sections 3(1)(r), 3(1)(s) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989.

3. It is the case that the informant-injured lodged the FIR with Shivaji Nagar Police Station on 13th August 2024. His supplementary statement thereafter came to be recorded on 17th October 2024 i.e. after two months from the date of FIR. It is in that statement, the informant stated that the present applicant abused the informant in the name of caste on 11th August 2024. On 12th August 2024, another incident took place because of earlier incident wherein it is alleged that this appellant alongwith other accused persons assaulted the injured. It is specifically alleged that the present appellant gave a blow of iron rod on the head of the informant. The informant received injuries. His two fingers of his hand received fracture.

4. The appellant had approached this Court earlier before filing of the charge-sheet. However, his bail application came to be withdrawn. After filing charge-sheet, he filed another application before the trial Court seeking bail in the event of arrest. The said application came to be rejected by way of impugned order, and thus, the appellant is before this Court.

5. Mr. Kulkarni, the learned Advocate for the appellant vehemently argued that the incident took place on 12th August 2024 whereas the complaint came to be lodged on 13th August 2024. It is after two months thereafter for the first time, the allegation is made in a supplementary statement. It is only with a view to counter-blast the complaint filed by mother of the present appellant on 14th August 2024. He submits that in the first injury certificate dated 23rd September 2024, there are only four injuries shown which are all simple in nature. However, later on, in another certificate dated 13th February 2025, there are five injuries shown out of which the last injury is shown to be

grievous. He submits that even the injury is shown after much delay. The observation of the learned Sessions Judge that the position when the earlier application before this Court was withdrawn, is the same as on today. There are no change in circumstances. When the earlier application was withdrawn from this Court, charge-sheet was already filed. He submits that, in fact, the charge-sheet though was filed, no copy was given to the accused and the appellant, and thus the appellant had no knowledge about filing of the charge-sheet. He thus submits that the said observation is against record. The observation of the trial Court to that effect is not correct. He further argued that now a charge-sheet is filed. No offence is made out under the Atrocities Act. Now, iron rod is also seized. The appellant thus now deserves protection. The other accused persons are already granted protection, whose role is almost similar like present appellant and on the ground of parity also appellant deserves bail. He also invited attention of the Court to the order passed by this Court in the case of other accused i.e. Pratap Bandu Shinde passed in Criminal Appeal No. 852 of 2024.

This Court finds that when the earlier application for bail was withdrawn from this court, no copy of the charge-sheet was given to the accused.

6. Learned APP vehemently argued that there are specific allegations that the present appellant abused in the name of caste that is appearing in the supplementary statement. The supplementary statement is recorded after two months as the informant was admitted in the hospital. Even the complaint filed by mother of the informant is also filed after two days of the incident. So far as role is concerned, she submits that the injuries caused by iron rod are attributed to this appellant. The involvement of the this appellant is clear. She prays for rejection of the appeal.

7. Learned Advocate for the respondent No.3 vehemently opposed the appeal. He submits that looking to the injury received by the informant, it is clearly seen that a force is applied. There are 19 stitches on the head of the informant. Showing the severity of the offence on 11th

August 2024, in the said incident abuses were given in the name of caste. That incident happened on the road i.e. in public a view. From incident dated 12th August 2024, it is clearly seen that all the accused persons came together with a motive. Thus, no sympathy deserves to be shown.

8. This Court has gone through the arguments and the charge-sheet. It does appear that the statement recorded on 17th October 2024 i.e. recorded more than two months after the incident. In the supplementary statement the complainant has stated that after receiving the injury, he was taken to the Government Hospital, Beed. Thereafter, he was taken to another hospital and it is for that reason, he could not give immediate statement. It is also stated that before the police, he had stated that there were abuses given in the name of caste, however, still the said was not recorded by the police. It is also seen that the injuries are grievous. As per the allegation, the iron rod was used by the present appellant. There are injuries corresponding to the said iron rod. The seizure of the

rod is also made from the present appellant. In view of the statement that abuses were given in the name of caste, this Court finds that provision of Atrocities Act are clearly attracted, and in such cases, the appeal cannot be considered in view of bar under Section 18 of the Atrocities Act.

9. Considering all above, this Court finds that no case is made out to grant bail to the appellant. The appeal is therefore stands dismissed and disposed off.

[KISHORE C. SANT, J.]