



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

CRIMINAL APPEAL NO. 621 OF 2024

- 1] Gajanan Madhav Gaikwad Nandedkar
Age-43 years, Occupation-Service,
R/o. Sinchan Nagar, Taroda (Kh),
Dist.Nanded.
- 2] Om @ Pranavkumar Gaikwad Nandedkar
Age-18 years, Occupation-Education,
R/o. Sinchan Nagar, Taroda (Kh),
Dist.Nanded.
- 3] Shubhada Gajanan Gaikwad Nandedkar
Age-39 years, Occupation-Homemaker,
R/o. Sinchan Nagar, Taroda (Kh),
Dist.Nanded.
- 4] Satish Shesherao Lohekar
Age-33 years, Occupation-Service,
R/o. Dronagiri Nagar, Hadgaon,
Tq. Hadgaon, Dist.Nanded.

...Appellants

VERSUS

- 1] The State of Maharashtra,
Through Officer In charge, Police Station
Bhagyanagar, Nanded, Dist.Nanded.
- 2] The Superintendent of Police,
Nanded, Dist.Nanded.

- 3] Seema Dhondiba Mhaisekar @ Seema Mariba Pawar
Age-43 years, Occupation-Homemaker,
R/o. Sinchan Nagar, Taroda (Kh),
Nanded, Dist.Nanded.

...Respondents

**WITH
CRIMINAL APPEAL NO. 651 OF 2024**

1. Laxman Saidu Mamalwad,
Age : 39 years, Occu.Business,
R/o. Sinchan Nagar, Malegaon Road,
Tarboba (Kh.) Nanded,Dist.Nanded.

...Appellant

VERSUS

1. The State of Maharashtra,
Through Officer In charge,
Police Station Bhagyanagar,
Nanded, Dist.Nanded.
2. The Superintendent of Police,
Nanded, Dist.Nanded.

- 3] Seema Dhondiba Mhaisekar
Age-43 years, Occupation-Homemaker,
R/o. Sinchan Nagar, Taroda (Kh) Nanded,
Dist.Nanded.

...Respondents

Advocate for Appellants : Mr. Sudarshan J.Salunke
APP for Respondent Nos. 1 and 2 : Mrs. Ashlesha S.Deshmukh
Advocate for Respondent No.3 : Mr. R.M.Lone

CORAM : SHAILESH P. BRAHME, J.

DATE : 20th MARCH 2025

FINAL ORDER :

1. These two appeals are emanating from orders of rejection of plea of pre-arrest protection of the appellants in furtherance of Crime No.0135 of 2024 registered with Police Station, Bhagyanagar, Nanded, Dist. Nanded under Sections 452, 354, 327, 427, 323, 147, 149, 506 of I.P.C, under Sections 3(1)(s), 3(1)(r), 3(1)(w), 3(2)(va) of the S.C. and S.T (Prevention of Atrocities) Act, 1989 and under Sections 4 and 25 of the Arms Act, 1959. For the sake of convenience I am referring to papers of Criminal Appeal No.621 of 2024.
2. It is necessary to disclose at the outset that except appellant no.1/Gajanan, all the appellants were granted interim protection by this Court vide order dated 12.07.2024, which is still continued.
3. The Respondent No.3 lodged the report on 02.04.2024 against the appellants about the nuisance caused by them in the vicinity. The informant contracted inter-caste marriage and she was belonging to Scheduled Caste hence she was targeted by accused. She was being

insulted on her caste by Appellant no.1/Gajanan for many years. On 25.03.2024 appellants and other persons barged into her house, damaged her car, house and abused her on her caste. Her modesty was also outraged. Golden ornaments were snatched. This incident was captured in the closed circuit television (CCTV). They were armed with weapons.

4. Learned counsel Mr.Salunke for the appellants submits that there is delay in filing First Information Report. The allegations are vague and omnibus. The abuses on caste are in corus which is improbable. It is submitted that immediately after incident, on the next date informant lodged N.C.R No.166 of 2024. She was not satisfied hence present concocted report was lodged in pursuance of which the appellants are seeking protection. He would submit that appellant and the informant are acquainted with each-others and there is long standing enmity between them. Hence appellants are falsely implicated. He would advert my attention to N.C.R No. 164 of 2024 lodged at the instance of Shubhada/wife of the Appellant No.1 against husband of the informant and F.I.R bearing Crime NO. 129 of 2024.

5. Mr.Salunke relies on the judgment of Supreme Court in the matter of **Hitesh Verma vs. State of Uttarakhand** reported in 2021 CRI.L.J.1 and of this Court in the matters of **Vijaymala Tanaji Dolare and Ors. vs. The State of Maharashtra and Anr.** reported in 2020 ALL MR (Cri.) 1835, **Kishor Chhagan Ghate and others vs. The State of Maharashtra and another** in Criminal Appeal No.766 of 2018 and **Amar Ramakant Puri Vs. The State of Maharashtra and Others** in Criminal Appeal No.95 of 2024.

6. Learned APP has filed affidavit-in-reply in both the appeals. I am shown coloured images of C.C.T.V footage collected during investigation identifying the appellants with weapons. It is submitted that appellants have indulged into repeated torture to the informant and her husband knowing that she belongs to Scheduled Caste. It is submitted that there are eye witnesses to the incident. The role of the appellant No.1/Gajanan is pre-dominant and repetitive. The investigation is underway and therefore custodial interrogation is required.

7. Learned counsel Mr.Lone appearing for Respondent No.3 also relies on the affidavint in reply. It is pointed out that the appellants are

influential and despite of cognizable offence committed on 25.03.2024, F.I.R was not registered and the informant was required to approach higher authorities by filing application on 27.03.2024. On 26.03.2024 only N.C.R No. 166 of 2024 was registered. It is submitted that C.C.T.V footage has been supplied by the informant. Appellant and others were armed with deadlier weapons. After the assault on 25.03.2024, she was hospitalized. She immediately approached police for registering F.I.R. It is submitted that if the appellants are released on bail then there is a further threat to the informant.

8. I have gone through reply filed by the parties and relevant police papers. First Information Report discloses that Appellant No.1/Gajanan played incriminating role repetitively. The casteist allegations are mainly pitted against him. He appears to have been indulging into overt act since many years. Informant was not only abused but assaulted by appellant/Gajanan. Her husband was also assaulted. Her modesty was also out-raged by him. There is eye witness and C.C.T.V footage available which can be seen from the coloured photo-copies. There is a strong prima facie case against appellant No1/Gajanan. Considering severity of the allegations and his tendency to repetitively

target informant due to her caste, I do not find that he is entitled to pre-arrest protection. Bail to his extent stands dismissed.

9. There is no complaint of breach of any condition by the respondents imposed on other appellants while granting them interim protection. Though their presence is noticed at the relevant time, the allegations against them are less serious. Enmity between the appellants and the informant is apparent. There are rival complaints filed by the parties. Considering the role played by them and the material placed before me, I find that they are entitled for continuation of the interim protection.

10. The judgment cited by Mr.Salunke of co-ordinate bench in the matter of **Vijaymala Tanaji Dolare and Ors.** (supra) can not be made applicable to the extent of Appellant No.1/Gajanan because he has played active and more incriminating role. However in respect of other appellants the ratio laid down in paragraph No.10 is applicable. I have gone through judgment of Supreme Court in the matter of **Hitesh Verma** (supra). In paragraph No.13 and 14, the concept of place in public view is explained by Apex Court. In the present case incident occurred in a house but there was presence of number of persons.

Therefore the appellants can not get benefit of this judgment, albeit they (except Gajanan) are entitled to relief on other counts.

11. Reliance is placed on the judgment of co-ordinate bench of this Court in the matters of **Kishor Chhagan Ghate** (supra) and **Amar Ramakant Puri** (supra) are helpful for granting protection to the appellants other than Gajanan. Therefore, I pass following order :

ORDER

- a) Criminal Appeal Nos. 621 of 2024 and 651 of 2024 are allowed except appeal of the Appellant No.1/Gajanan which stands dismissed.
- b) Interim protection granted on 12.07.2024 in Criminal Appeal No.621 of 2024 and 24.07.2024 in Criminal Appeal No.651 of 2024 shall be continued till filing of charge-sheet.
- c) Additionally, the appellants shall not tamper or contact informant or prosecution witnesses.

[**SHAILESH P. BRAHME, J.**]