



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

CRIMINAL APPEAL NO. 901 OF 2024

1. Ganesh s/o. Ashok Jadhav,
Age 37 years, Occu. Agri.,
2. Rupesh s/o. Ashok Jadhav,
Age 33 years, Occu. Agri.,
Both R/o. Jadhav Galli Dharur,
Taluka Dharur, District Beed .. Appellants
(Accused No.4 and 3)

Versus

1. The State of Maharashtra
Through Superintendent of Police,
Beed
2. The Police Station Officer,
Dharur Police Station, Beed
3. Ravindra s/o. Uttam Sirsat,
Age 45 years, Occu. Agri.,
R/o. Kasaba Vibhag, Dharur,
Taluka Dharur, District Beed .. Respondents

Mr. Vivek Kabade, Advocate for Appellants;
Mr. R. B. Dhaware, A.P.P. for Respondents No.1 and 2;
Mr. Prashant P. Giri, Advocate for Respondent No.3

...

WITH

CRIMINAL APPEAL NO. 907 OF 2024

1. Kuldeep Babasaheb Jagtap,
Age 35 years, Occu. Business (Medical Shop),
R/o. Awargaon, Taluka Dharur,
District Beed
2. Mahesh Balasaheb Deshmukh,
Age 29 years, Occu. Medical Practitioner,
R/o. Moha, Taluka Dharur, District Beed
3. Balu @ Ashok Sakharam Vetar,
Age 46 years, Occu. Agri.,
R/o. Dharur, Taluka Dharur, District Beed .. Appellants
(Accused No.1, 2 and 5)

Versus

1. The State of Maharashtra
Through Superintendent of Police,
Beed
2. The Police Station Officer,
Dharur Police Station, Beed
3. Ravindra s/o. Uttam Sirsat,
Age 45 years, Occu. Agri.,
R/o. Kasaba Vibhag, Dharur,
Taluka Dharur, District Beed .. Respondents

Mr. Rahul R. Karpe, Advocate for Appellants;
Mr. R. B. Dhaware, A.P.P. for Respondents No.1 and 2;
Mr. Prashant P. Giri, Advocate for Respondent No.3

CORAM : KISHORE C. SANT, J.

DATE : 01-07-2025

PER COURT:-

1. Heard the learned counsel for the applicants, the learned A.P.P. for respondents No.1 and 2 and the learned counsel for respondent No.3.
2. The appellants have approached this Court seeking bail in the event of their arrest in connection with Crime No.244 of 2024 registered with Dharur Police Station, District Beed, for the offences punishable under Sections 115(2), 117(2), 118(1), 304(2), 303(1), 189(2), 191(2), 193(3), 189(4) and 190 of the *Bharatiya Nyaya Sanhita*, 2023 and Sections 3(1)(r), 3(1)(s), 3(1)(t) and 3(2) (va) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989.

3. It is alleged by the informant/respondent No.3 that on 23.08.2024, he received a phone call from one Kalpana Anant Jadhav. She told that she has an apprehension that she would be assaulted near Aai Medical Shop at Kaij road. On that, the informant went to the said shop. He found that the present appellants were beating Kalpana by using filthy language. Appellant No.2 was assaulting with bamboo stick. On that, he asked as to why they were beating Kalpana. All the accused persons then abused him in the name of caste assaulting the informant. Thereafter, accused No.1/appellant-Kuldeep specifically uttered the name of caste and insulted the informant. On this, the First Information report (FIR) came to be lodged. The appellants approached the Sessions Court seeking bail in the event of their arrest by filing Criminal Bail Application No.206 of 2024. The same came to be rejected by order below Exhibit-1, dated 24.09.2024. Appellants/accused No.1, 2 and 5 in Criminal Appeal No.907 of 2024 and accused No.4 and 3 in Criminal Appeal No.901 of 2024, have approached before this Court seeking bail in the event of their arrest.

4. Mr. Karpe, learned counsel for the appellants vehemently argued that there is a checkered history. The dispute is mainly between the family members on property. A short history is that Kalpana happens to be the second wife of deceased Anant Jadhav.

Deceased Anant had three daughters from his first wife Vaishali, who unfortunately died on 06.07.2018. After her demise, he married to Kalpana. Kalpana has one son from the deceased Anant, who died on 03.04.2023. Till then all the family members were residing together. After his death, the dispute started between three daughters from first wife and Kalpana on the property. The tenant in the property was paying rent to the daughters from first wife and, therefore, Kalpana started dispute on payment of rent with the tenant. The present complaint is only outcome of the said dispute.

5. Learned counsel for the appellants submits that main dispute is with Kalpana. There is no reason for informant/Ravindra to come to the spot. There is no question having any dispute or any reason to have a quarrel with the informant. He submits that all the allegations are imaginary. Taking the case as it is, no offence is made out. Appellant No.3 / Balu himself belongs to Scheduled Caste and, thus, no case is made out against him. The basic ingredients are lacking in the F.I.R. In the F.I.R. there is no statement that the informant happens to be a person from Scheduled Caste and the appellants belong to open category. He further submits that the allegation of abuses in chorus is not possible. He submits entire case is false. The offence of B.N.S. sections are bailable. It was, therefore, clearly a case of grant of bail in the event of arrest. Learned Sessions Judge has failed to

appreciate this fact. There is also F.I.R. of Kuldeep/ appellant No.1 against Kalpana, in which bail is also granted to them. He further submits that since last more than one year, there is protection. There is no violation of conditions imposed by the learned Sessions Judge while granting *interim* bail. He prays for allowing the appeals by setting aside the impugned order.

6. Learned A.P.P. while opposing the appeals submits that there is a statement of Kalpana who also supports the case of the informant. There are clear allegations against all these appellants. There is a fractured injury to informant/Ravindra as informed by the Investigating Officer. He, thus, prays for rejection of appeals.

7. Mr. Giri, learned counsel for respondent No.3 vehemently opposed the appeals. He submits that though the dispute is basically a property dispute, it clearly shows the motive to have a quarrel with Kalpana. The daughters of Kalpana wanted her to leave the house and rights of the property. Kalpana had obtained a heirship certificate, that was opposed by the daughters by filing Miscellaneous Civil Appeal No.16 of 2024. However, that Miscellaneous Appeal came to be dismissed. It is, thereafter, the daughters filed Miscellaneous Civil Application for heirship certificate. Kalpana appeared on 23.08.2024 i.e. on the day of incident and it is for this reason, there was a quarrel. The informant being a tenant in the property was called by Kalpana

and, thus, he was present on the spot. Since he tried to help Kalpana, accused persons abused informant in the name of caste. The allegations are clear. He further submits that, in fact, anticipatory bail application itself is not maintainable.

8. This Court has gone through the chargesheet and the impugned order.

9. It seems that the injuries on the person of informant Ravindra are simple. There is no grievous injury. Thus, the Court finds substance in the submission of Mr. Karpe, learned counsel for the appellants that all the offences under the B.N.S. sections are bailable.

10. So far as the allegations against appellant No.2 Mahesh are concerned, it is only seen that offences are B.N.S. sections. Looking the initial part of the F.I.R., the allegations shown that all the persons abused the informant in the name of caste. However, no specific name is mentioned in that part. However, thereafter in the later part, there is specific allegation against the appellant. He not only uttered the name of caste of the informant but also said that he belongs to Maratha caste. This, *prima facie*, shows that on one act, he has mentioned his caste also showing that he is being person of upper caste.

11. So far as the allegation against appellant No.1 Kuldeep is

concerned, the learned Additional Sessions Judge observed that in the present case, though appellant No.1 filed a cross case, the presence of appellant/Kuldeep and the informant alongwith witnesses at the scene of incident is admitted. F.I.R. also reveals specific allegation against accused No.1 Kuldeep and thereby his role is described. This Court, thus, finds that certainly at this stage, the case is made out against appellant No.1/Kuldeep. Hence, he does not deserve bail in the event of arrest.

12. So far as appellant No.3 Balu is concerned, since he himself belongs to Scheduled Caste, no ingredient is attracted. Thus, Criminal Appeal No.907 of 2024 deserves to be partly allowed to the extent of appellants No.2 and 3, namely, Mahesh and Balu.

13. So far as Criminal Appeal No.901 of 2024 is concerned, in the F.I.R. there is no specific allegation against the appellants – Ganesh and Rupesh. Hence, they deserve bail in the event of arrest.

14. Learned Sessions Judge has further observed that though the injuries are simple as observed, that no case is made out for bail under the B.N.S. sections. This Court finds that the observations are futile. Hence, the order:-

ORDER

- i) Criminal Appeal No.901 of 2024 is allowed.
- ii) Criminal Appeal No.907 of 2024 is partly allowed.

- iii) Criminal Appeal No.907 of 2024 to the extent of appellant No.1 Kuldeep Babasaheb Jagtap stands dismissed.
- iv) The impugned order passed by the learned Additional Sessions Judge, Kaij, District Beed, below Exhibit-1 in Criminal Bail Application No.206 of 2024, dated 24.09.2024, to the extent of appellants in Criminal Appeal No.901 of 2024 and appellants No.2 and 3 in Criminal Appeal No.907 of 2024, is quashed and set aside.
- v) Appellants No. (1) Ganesh s/o. Ashok Jadhav and (2) Rupesh s/o. Ashok Jadhav, in Criminal Appeal No.901 of 2024 and appellants No. (2) Mahesh Balasaheb Deshmukh and (3) Balu @ Ashok Sakharam Vetal, in Criminal Appeal No.907 of 2024, be released on bail in the event of their arrest in connection with Crime No.244 of 2024 dated 25.08.2024, registered with Dharur Police Station, Taluka Dharur, District Beed, for the offences punishable under Sections 115(2), 117(2), 118(1), 304(2), 303(1), 189(2), 191(2), 193(3), 189(4) and 190 of the *Bharatiya Nyaya Sanhita*, 2023 and Sections 3(1)(r), 3(1)(s), 3(1)(t) and 3(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 contact the informant and any of the prosecution witnesses;
- (b) They shall furnish their contact details, such as address and mobile numbers to the Investigating Officer;
- (c) They shall attend the police station as and when called by the Investigating Officer;
- (d) In case they tried to contact any of the witnesses, their bail shall be cancelled.

vi) The criminal appeals stand disposed of.

15. At this stage, Mr. Karpe, learned counsel for the appellants prays for continuation of *interim* relief granted to appellant No.1 Kuldeep Babasaheb Jagtap, for a period of two weeks. Since there is *interim* relief in favour of appellant No.1 Kuldeep, the same shall be continued for further period of two weeks from today.

[KISHORE C. SANT]
JUDGE

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