



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

CRIMINAL APPEAL NO. 975 OF 2024

Shivaji Baban Vharkate And Others
VERSUS
The State Of Maharashtra And Another

Mr. A. L. Kanade, Advocate for Appellants
Mrs. M. N. Ghanekar, APP for Respondent No.1/State
Mr. H. R. Lomte, Advocate for Respondent No.2 (Appointed)

CORAM : R. M. JOSHI, J.

DATE : 06th February, 2025

PER COURT :-

1. This appeal is restricted to the extent of Appellant No. 4 and 8.
2. These appellants apprehend arrest in connection with Crime No. 0237/2024 registered at Waluj Police Station, Dist. Aurangabad for the offence punishable under Sections 140(2), 140(1), 115(2), 352, 351(2), 351(3) of Bhartiya Nyaya Sanhita, 2023 & under Section 3(2) of scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act.
3. Gist of First Information Report shows that for the purpose of recovery of sum of Rs. 5,00,000/- paid to the said brother in law of the informant, he was abducted by 4 persons. Informant claims that he was intended about the said incident of abduction by an eye witness.

4. Learned counsel for the Appellant submits that person who has witnessed the incident claims that involvement of 4 accused in the said abduction whereas there are 8 persons who are charged in the said offence. According to him, there is absolutely no evidence to connect appellants with this crime. He further claims that in order to avoid repayment of Rs. 5,00,000/- taken from the appellant false report is lodged.

5. Learned APP and learned counsel for the Informant opposed the appeal citing seriousness of the crime.

6. First informant is not eye witness of the incident in which Sitaram was abducted, but he received phone call from Sandip Gade who had seen the incident of abduction. Sandip Gade informed him that 4 persons coming to the spot and having abducted Sitaram. As against this, statement of Sitaram is recorded and names of 8 persons to be accused of the said abduction were taken. This Court, therefore, finds substance in the contention of learned counsel for the appellants that this could be a case of false implication in order to ensure that the Sitaram is not required to repay amount obtained from .

7. Perusal of the police papers indicates that Sandip Gade's statement is not sufficient to accept *prima facie* involvement of the

appellant in this crime. Appellants have no history of crime behind them. They are not likely to flee from justice. Hence, appeal is allowed in terms of interim order.

8. Fees of the appointed counsel is quantified Rs.10,000/- and it is to be paid by the High Court Legal Services Authority Sub Committee, Aurangabad.

(R. M. JOSHI, J.)

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