



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

910 CRIMINAL APPEAL NO. 991 OF 2024

Sureyya Altaf Kadari

VERSUS

The State Of Maharashtra And Another

...

Ms. Sunita G. Sonawane, Advocate for Appellant

Mrs. Ashlesha S. Deshmukh, APP for Respondent No.1 State

Mr. S. P. Salgar, Advocate for Respondent No.2 (Appointed)

CORAM : Y. G. KHOBRAGADE, J.

DATE : 30.01.2025

PER COURT :-

1. Heard Ms. Sunita Sonawane, the learned counsel for the Appellant, Mrs. Deshmukh, the learned APP for the State and Mr. Salgar, the learned counsel (appointed) for Respondent No.2, at length. Perused the record as well as charge-sheet and the reply filed on behalf of the respondents.

2. It is a matter of record that on 06.10.2024, the informant/ Respondent No.2 lodged an FIR with Rahata Police Station District Ahmednagar alleging that, on 06.10.2024, at about 4.30 p.m., she was informed by Mrs. More that, co-accused Shine Shaikh assaulting her son (son of informant), then she came out of her house and saw that co-accused Shine Ashif Shaikh was assaulting her son with fist and kick blows and therefore, she intervened and tried to take away her son and

resolve the quarrel. But when she was proceeding to her house, at that time, co-accused Shine Shaikh abused her on her caste by saying “तुम्ही भंगी लई माजले आहे, थांबा तुम्हाला दाखवते.” Thereafter, the said accused called other accused including the present appellant- Sureyya Kadari. Thereafter, all accused persons came at the spot of incident armed with iron rod, wooden stick and assaulted her. The present appellant accused Sureyya Kadari allegedly assaulted her with kick and first blows. On the basis of said report, Crime No.0456/ 2024, registered against the accused persons including the present appellant for the offences punishable under Sections 118, 115(2), 352, 351(2) (3), 189(2), 191(2), 191(3), 190 of Bhartiya Nyaya Sanhita, 2023 and under Section 3(1)(r), 3(1)(r), 3(1)(s), 3(2)(va) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act with Rahata Police Station, District Ahmednagar.

3. The Investigation Officer visited the spot of incident and drawn spot panchanama, injured was referred for medical treatment to Rural Hospital Rahata and statements of the witnesses are recorded. So also, the Investigation Officer drawn Seizure Panchanama and recovered some weapon. The present appellant/accused arrested on

09.10.2024 and since then, she is behind the Bar. After investigation is over, charge sheet came to be filed before the Special Court, Rahata District Ahilyanagar (Ahmednagar).

4. The present appellant accused had filed Criminal Bail Application No. 149 of 2024 before the Special Court and prayed to enlarge her on bail. On 24.10.2024, the learned Special Court passed the impugned order and rejected the bail application on the ground that there was a threat by saying “Gustakh E Nabi Ki Ek Saza Sar Tan Se Juda, Sar Tan Se Juda”, meaning thereby, to sever head from the body of non followers of Prophet Muhammad. However, there is no allegation that the present appellant accused issued such threat. The FIR does not disclose that, the present appellant /accused abused the victim on her caste. Role played by the present appellant is to the extent of assaulting the victim with kick and first blows. Allegations are not attributed to the appellant about assault with deadly weapon.

6. Therefore, considering the nature of offence, I am inclined to grant the present Appeal and proceed to pass the following order:-

ORDER

- (i) The Criminal Appeal is hereby allowed.
 - (ii) The order dated 24.10.2024, passed by the learned learned Special Court, Rahata, below Exh.01 in Criminal Bail Application No.149 of 2024, is hereby quashed and set aside to the extent of appellant Sureyya.
 - (iii) The Appellant / accused Sureyya Altaf Kadari be released on bail in Crime No.0456 of 2024, registered at Rahata Police Station, District Ahmednagar, for the offence punishable under Sections 118, 115(2), 352, 351(2)(3), 189(2), 191(2), 191(3), 190 of Bhartiya Nyaya Sanhita, 2023 and under Section 3(1)(r), 3(1)(r), 3(1)(s), 3(2)(va) of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act., on execution of P.R. bond of Rs.50,000/- with one or two sureties in the like amount.
 - (iv) The Appellant shall not issue threat to the witnesses and shall not tamper with the prosecution evidence and shall cooperate with the trial.
- 4) Fees of the appointed Advocate shall be paid as per Rule/Schedule.

[Y. G. KHOBRAGADE, J.]