



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

CRIMINAL APPEAL NO. 1058 OF 2024

Shaikh Akhil Shaikh Latif .. Appellant

Versus

The State of Maharashtra and another .. Respondents

Shri Hamzakhan I. Pathan, Advocate for the Appellant.

Shri K. K. Naik, A.P.P. for the Respondent No. 1.

Shri Nilesh N. Bhagwat, Advocate for the Respondent No. 2
appointed by Legal Aid Committee.

CORAM : SHAILESH P. BRAHME, J.

DATE : 18TH MARCH, 2025.

FINAL ORDER :

. Heard both sides finally.

2. This appeal is directed against rejection of pre-arrest bail vide order dated 13.11.2024 by the learned Additional Sessions Judge - 2, Hingoli, Dist. Hingoli in furtherance of offence bearing Cr. No. 599/2024 registered with the Akhada Balapur Police Station, Dist. Hingoli for the offences punishable U/Sec. 118(1), 296, 115(2), 351(3), 3(5) of Bhartiya Nyaya Sanhita, 2023 and U/Sec. 3(1)(r), 3(1)(s), 3(2)(va) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act.

3. The application for anticipatory bail was filed by the present appellant as well as co-accused. The co-accused Salim, Nadim and Mohasin were granted pre-arrest bail, whereas

appellant's claim is rejected. On 05.10.2024, a complaint was filed by one Shivaji Tukaram Shelke against appellant and co-accused alleging that co-accused Nadim was found to be quarreling with the mother of the informant. The appellant and others joined him. Thereafter there were abuses on the caste and threats were also given to the informant and his mother. Appellant is alleged to have inflicted blow on the eye-brow of the informant by key.

4. Learned counsel for the appellant Mr. Pathan submits that the appellant is entitled to the protection on the ground of parity. He would submit that there was no *mens rea*, although there are allegations on caste. He would submit that the provisions of the Prevention of Atrocities Act are not attracted. No custodial interrogation is required. The informant did not sustain serious injury.

5. Per contra, learned Assistant Public Prosecutor tenders on record the papers of the investigation and would support the impugned order. It is submitted that the specific incriminating role has been attributed to the appellant. The incident took place within public view. The statements of eye witnesses were recorded. The allegations are serious in nature. No interference is called for in the impugned order.

6. Learned counsel for the respondent No. 2 adopts the submissions of the learned A. P. P.

7. I have considered rival submissions of the parties as well as I have gone through the relevant papers of investigation. It reveals from the first information report that appellant and Mohsin hurled abuses on caste and appellant inflicted injury on the eye brow of the informant by means of key. The incident took place within public view. The injury certificate indicates the nature of the injuries as simple near eye brow.

8. The lower Appellate Court allowed the application to the extent of co-accused. The allegations against the present appellant and co-accused Mohsin and Nadim are almost identical muchless to the extent of hurling abuses on caste. Mohsin and Nadim were granted pre-arrest protection. It appears from record that the dispute cropped up because of taking away the bicycle of the informant.

9. Considering the nature of the allegations and the relevant statement of Savitribai and Anita, I find that present appellant also deserves pre-arrest protection. If suitable conditions are imposed would sub-serve the purpose. I, therefore, allow the present appeal and pass following order.

O R D E R

A. The criminal appeal is allowed.

B. The impugned order dated 13.11.2024 passed by the

learned Additional Sessions Judge – 2, Hingoli below Exhibit 01 in Criminal Bail Application No. 489 of 2024 to the extent of the present appellant is quashed.

C. The appellant/Shaiikh Akhil Shaiikh Latif shall be released on bail in the event of his arrest in furtherance of offence bearing Cr. No. 599/2024 registered with the Akhada Balapur Police Station, Dist. Hingoli for the offences punishable U/Sec. 118(1), 296, 115(2), 351(3), 3(5) of Bhartiya Nyaya Sanhita, 2023 and U/Sec. 3(1)(r), 3(1)(s), 3(2)(va) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act on furnishing personal bond of Rs. 30,000/- (Rs. Thirty thousands only) with one solvent surety of like amount on following conditions.

D. The appellant shall not enter village Akhada Balapur until filing of charge sheet, but he can stay at Kalamnuri.

E. The appellant shall inform the investigating officer about his whereabouts. He shall report concerned police station on every Monday between 12.00 noon to 5.00 p.m.

F. The criminal appeal is allowed.

G. The fees of the learned counsel for the respondent No. 2, who is appointed by legal aid is quantified at Rs. 4,000/- (Rs. Four thousands only)

[SHAILESH P. BRAHME J.]

bsb/March 25