



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

CRIMINAL APPEAL NO. 1085 OF 2024

1. Afsar Abdul Pathan, Age 46 years,
 2. Farin Afsar Patha, Age 46 years,
Both Occu. Social Worker,
R/o. Aziz Colony, Naregaon,
Aurangabad
- .. Appellants
(Original Accused)

Versus

1. The State of Maharashtra
Through Karmad Police Station,
District Aurangabad
 2. Jyoti Vijay Chambhore, Age 37 years,
R/o. Triyambak Nagar, Devulgaon Raja,
District Buldhana
- .. Respondents

Mr. Chaitanya C. Deshpande, Advocate for Appellants;
Ms. Chaitali Choudhari-Kutti, APP for Respondent No.1;
Mr. S. P. Salgar, Advocate for Respondent No.2 (appointed Through
Legal Aid)

CORAM : KISHORE C. SANT, J.

DATE : 25-06-2025

PER COURT:-

1. Heard the learned counsel for the parties.
2. The appellants have approached this Court seeking bail in the event of their arrest in connection with Crime No.483 of 2024 registered with Karmad Police Station, Aurangabad, for the offences punishable under Sections 118(1), 189(2), 191(2), 191(3), 190, 115(2), 352, 351(2) of the *Bharatiya Nyaya Sanhita, 2023* (for short "B.N.S.") and Sections 3(1)(r)(s), 3(2)(va) and 3(1)(s) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989.

3. The appellants have challenged the order passed by the learned Additional Sessions Judge, Aurangabad, below Exhibit-1 in Criminal Bail Application No.2593 of 2024, dated 16.12.2024.

4. It is the case of the prosecution that an offence came to be registered by respondent No.2/informant. It is alleged that on 08.12.2024, present appellants and three ladies in burkha abused the informant and other family members in the name of caste and asked them to get out from the field. It is alleged that the said field belongs to the informant, her father and brother. On this, it is alleged that appellant No.1 assaulted the informant with a stick on the right hand. She received injuries on the head and right hand. Three ladies in *burkha* also gave fist blows to the sister and mother of the informant.

5. It is alleged that a statement/information was given from the hospital on 08.12.2024. On the same day, the police on the basis of the statement, registered the offence. The appellants, apprehending arrest, approached the Sessions Court, where their criminal bail application came to be rejected.

6. Learned counsel for the appellants has argued that there is no specific allegation against any of the accused persons as to who exactly abused the informant in the name of caste. From the injuries, only B.N.S. offences are made out. Learned Additional

Sessions Judge, however, rejected bail application in view of bar under Section 18 of the Atrocities Act. He submits that no abuses can be given in chores by the accused persons. Therefore, it is necessary to mention as to which of the accused abused in the name of caste causing humiliation or insulation. Taking the present complaint as it is, he submits that no intention appears to humiliate or insult the informant in the name of caste.

7. Learned A.P.P. opposes the application. She submits that the informant and her family members are obstructed from entering their land. The ingredients of Section 3(2)(va) of the Atrocities Act are attracted. Hence, the learned trial Judge has rightly rejected the application. There is injury certificate showing that the informant received injury on her hand and head. There are two statements of eyewitnesses; one of mother and another of sister of the informant. They have stated about the role of present appellant No.1. She prayed for rejection of the appeal.

8. Learned counsel for respondent No.2 submits that clearly a case is made out under the Atrocities Act. The appellants are trying to dispossess the informant from the land under the pretext that they are owners, where in fact, there is no title document, even revenue entries are not in their names. He prays for rejection of the appeal.

9. On looking to the first information report, it is not clear as to which of the accused has insulted or humiliated the informant in the name of caste. Though there is utterance in the name of caste, however, it does not show that it was with an intention to cause insult or humiliation. The specific allegation against appellant No.1 is of beating the informant by stick. Looking to the injury certificate, it is seen that the injury is simple. There is only one injury and it is shown as simple. The statements of mother and sister of the informant also show that the allegation is against all and not against any one specific so as to attract Section 3(1)(r) and 3(1)(s) of the Atrocities Act. Looking to the material, it is further seen that the dispute is of civil nature over the possession of the agricultural land. At this stage, the Court finds that no clear case is made out attracting the provisions of the Atrocities Act.

10. Considering the above, this Court is inclined to allow the appeal. Hence, the order:-

ORDER

- i) The criminal appeal is allowed.
- ii) The impugned order passed by the learned Additional Sessions Judge, Aurangabad, below Exhibit-1 in Criminal Bail Application No.2593 of 2024, dated 16.12.2024, is quashed and set aside.

- iii) Appellant Nos.1 and 2 be released on bail in the event of their arrest in connection with Crime No. 483 of 2024 registered with Karmad Police Station, Aurangbad, for the offences punishable under Sections 118(1), 189(2), 191(2), 191(3), 190, 115(2), 352, 351(2) of the *Bharatiya Nyaya Sanhita, 2023* and Sections 3(1)(r)(s), 3(2)(va) and 3(1)(s) of the Scheduled Castes and the 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 enter the village where the informant resides, except for attending the police station till filing of the chargesheet;
 - (b) They shall furnish their contact details such as address and mobile numbers to the Investigating Officer;
 - (c) They shall not contact the informant and any of the prosecution witnesses;
 - (d) They shall attend the police station as and when called by the Investigating Officer;
 - (e) In case of breach of any condition, their bail bonds shall be liable to be cancelled.
- iv) Mr. S. P. Salgar, learned counsel is appointed for respondent No.2 through the High Court Legal Services Sub Committee, Aurangabad. The Court appreciates his efforts. He shall be entitled to fees as per Rules.

[KISHORE C. SANT]
JUDGE