



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

CRIMINAL APPEAL NO. 191 OF 2025

1. Javed Noormohammad Shaikh
2. Altaf Jakir Patel .. Appellants

Versus

The State of Maharashtra and another .. Respondents

Mr. R. R. Deshpande, a/w Mr. Z. A. Sayyed, Advocate h/f Smt. P. R. Deshpande, Advocate for the Appellants.

Mr. R. B. Dhaware, APP for Respondent No. 1.

Smt. Renuka Ghule Palve, Advocate for Respondent No. 2
(Appointed through Legal Aid)

CORAM : KISHORE C. SANT, J.

DATE : 30th JUNE, 2025.

PER COURT :-

. Heard the parties.

2. This appeal is filed seeking bail in the event of arrest of the appellants in connection with Crime No. 0040/2025 registered with AUSA Police Station dated 11.02.2025 for the offences punishable under Sections 352, 3(5), 132, 121(2), 121(1), 115(2) of the Bharatiya Nayaya Sanhita (for short "B.N.S.") and under Sections 3(2)(va), 3(1)(s), 3(1)(r) of the Scheduled Caste and Scheduled Tribe (Prevention of Atrocities) Act. The learned Special Judge, Additional Sessions Judge, Latur has rejected the application of the appellants by order dated 03.03.2025. In the FIR, the informant

alleged that the accused knows the caste of the informant that he belongs to scheduled caste. He was working as traffic controller in State transport. When the informant was on duty on 10.02.2025 the accused No. 1 started coming in front of bus. When the informant tried to tell him not to do so, he came along with his son i.e. accused No. 3 and one unknown person as accused No. 4. It is alleged that, though they were aware of the caste of the informant, they deliberately caused disturbance in the official duty and thereafter all the accused also assaulted him with fist and blows by abusing him in the name of caste. In the incident, the informant received fracture injury to his left hand. On these allegations, the FIR came to be registered. The learned Special Judge, Additional Sessions Judge rejected the application mainly on the ground that, the offence is made out under the Atrocities Act and in view of bar no anticipatory bail can be granted.

3. The learned advocate Mr. Deshpande for the appellants vehemently argued that, there are no specific utterances mentioned in the FIR. Merely because the informant happens to be of scheduled caste is no reason to hook the accused persons under the Atrocities Act. At the most incident is of assault. Except one injury other injuries are simple. The offence is registered on 11.02.2025. The appellants have attended the police station as per the conditions imposed by this Court. The Police have already made the investigation. No custodial interrogation of the appellants is now necessary.

4. The appeal is vehemently opposed by the learned A.P.P. and

learned advocate for respondent No. 2. They submit that, the allegations are clear that the informant was abused in the name of caste. There are independent eye witnesses who have also stated that the incident had taken place where the accused persons assaulted the informant. They both pray for rejection of the appeal.

5. After hearing the parties and after going through the investigation papers it is seen that, the incident of assault has taken place. There is medical certificate showing that the informant received a grievous injury. It is thus seen that, there are total nine injuries and only one is grievous injury. From the FIR, however, it is not clear as to who exactly used weapon or assaulted the informant. There is also nothing to show the exact utterances and also as to who exactly abused in the name of caste. It would not be desirable to put the appellants in custody on such vague FIR and the statements. The learned Special Judge, Additional Sessions Judge has failed to consider this aspect. The order passed by the learned Special Judge, Additional Sessions Judge, therefore, needs to be quashed and set aside. Hence, the following order :

ORDER

(I) Criminal Appeal is allowed.

(II) The order dated 03.03.2025 passed by the learned Special Judge, Additional Sessions Judge, Latur is quashed and set aside.

(III) The appellants be released on bail in the event of their arrest in connection with Crime No. 0040/2025 registered with AUSA Police Station dated 11.02.2025 for the offences punishable under Sections

352, 3(5), 132, 121(2), 121(1), 115(2) of the B.N.S. and under Sections 3(2)(va), 3(1)(s), 3(1)(r) of the Atrocities Act on furnishing PR. bond in the sum of Rs. 25,000/- each with one solvent surety in the like amount on following conditions :

(a) The appellants shall not try to contact any of the witnesses and shall not try to pressurize them. They shall co-operate in the investigation. They shall remain present as and when called by the investigating officer.

(b) The appellants shall give their residential address, mobile number and other contact details with concerned I.O./Police Station.

6. The learned advocate for respondent No. 2 is appointed through Legal Aid. The Court appreciates her efforts in assisting this Court. She shall be entitled to receive the fees as per the rules through legal aid.

(KISHORE C. SANT, J.)

PS.B.