

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPEAL NO. 446 OF 2017

Usha Ishwar Pawar	Appellant
versus	
1. The State of Maharashtra	
2. Jyoti Kondiba Sonawane	Respondents

CRIMINAL APPLICATION NO. 885 OF 2017
IN
CRIMINAL APPEAL NO. 446 OF 2017

Jyoti Kondiba Sonawane	Applicant
In the matter of	
Usha Ishwar Pawar	Appellant
versus	
1. The State of Maharashtra	
2. Jyoti Kondiba Sonawane	Respondents

Mr. Niranjan S. Mundargi along with Prasanna Bhangale i/b. Mr. Santosh S. Musale, advocate for the appellant.
Mr. A. R. Kapadnis, APP for the State.
None for the complainant/respondent No.2.

CORAM : RANJIT MORE &
SMT.SADHANA JADHAV, JJ.

DATE : 29th AUGUST, 2017.

P. C. :

Heard Mr. Mundargi, learned counsel for the appellant and Mr. Kapadnis, learned APP for the State. None appears for the complainant/respondent No.2 despite service. On the last occasion i.e. on 22nd August, 2017 also, nobody appeared on behalf of the complainant/respondent No.2.

2. The appellant by filing this appeal is challenging an order dated 2nd May, 2017, passed by the learned Additional Sessions Judge, Kalyan below application being ABA No.1517 of 2016, whereby her request for anticipatory bail came to be rejected.

3. The appellant belongs to Maratha Community and the respondent No.2 belongs to Scheduled Caste. The appellant and respondent No.2 are neighbours and admittedly their relations are cordial. It is alleged that on 20th November, 2016, at about 7.30 a.m., the appellant suddenly emptied the entire water from the drum and the said water entered into the door of the respondent No.2. The respondent No.2 asked the appellant as to why she did so. It is further alleged that the appellant quarreled with the respondent No.2 and abused her on the basis of her caste.

4. Immediately at 7.40 a.m., after the incident, the appellant approached Thane Central Police Station with her complaint against the respondent No.2 and filed report. On the basis of this report, the Thane Central Police Station has registered NC against the respondent No.2 for the offences punishable under Sections 504 and 506 of the Indian Penal Code, 1860. The respondent No.2, thereafter approached the said police station at about 12.15 pm and lodged complaint on the basis of which the subject FIR is registered under Section 504 of the Indian Penal Code, and Section 3(1)(x) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989. Thereafter, the appellant approached the Sessions Court for anticipatory bail. However, the same was rejected by the order impugned and, thereafter, the appellant approached this Court by way of aforesaid appeal.

5. We have gone through the FIR. We have also gone through the statement recorded under Section 161 of the Code of Criminal Procedure, 1973. The FIR does not disclose that the accusation is made within public view. That apart, the appellant approached the police station at earlier point of time and lodged NC complaint. It seems that the present FIR is registered as a counter blast . The incident in question is over trifling dispute and, therefore, we are of the opinion that the appellant is entitled for anticipatory bail. We, accordingly, dispose off the appeal by passing the following order :

1. The impugned order dated 2nd May, 2017, passed by the learned Additional Sessions Judge, Kalyan, below application being ABA No.1517 of 2016 is accordingly quashed and set-aside.
2. In the event of arrest of the appellant in the subject FIR, she be released on bail on execution of a PR Bond in the sum of Rs.25,000/- with one or two sureties in the like amount.

6. The observations hereinabove are prima facie and the same are made for the purpose of disposal of this appeal, and the trial Court shall not be influenced by the said observations.

7. In view of the disposal of the appeal, criminal application No. 885 of 2017 will not survive for consideration and the same is also disposed off.

(SMT. SADHANA JADHAV, J.)

[RANJIT MORE, J.]