

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPEAL NO. 682 OF 2017

Prakash Vinayak Deshpande and anr.Appellants
versus
The State of Maharashtra and anr.Respondents

Mr. M. K. Kocharekar, advocate for the appellants.
Mrs. P. P. Shinde, APP for the State.
Mr. Dushyant Pagare, advocate for the respondent No.2.

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

DATE : 13th SEPTEMBER, 2017.

P. C. :

Heard the learned counsel for the appellants, learned counsel for the respondent No.2/complainant and learned AGP for the State. We have also interacted with the respondent No.2 who is personally present before the Court.

2. By this appeal, the appellants have challenged the order dated 1st August, 2017, passed by the learned Special Judge and Additional Sessions Judge, Satara, below application at Exhibit 1 in criminal M.A. No.309/2017. By the said order, the appellants prayer for anticipatory bail came to be rejected.

3. At the instance of respondent No.2, Shirwal Police station registered FIR No.102 of 2017 against the appellants for the offences

punishable under Section 436 of the Indian Penal Code, 1860 and Sections 3 (1)(r), 3 (1)(z), 3(2)(iv) and 3(2)(v) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989. In the said FIR, the respondent No.2 alleged that on 3rd June, 2017, at about 1.00 am, the appellants came to her house and enquired about her father – Hindustan Pardi alleging that her father had molested two of their calves from the cattle-shed and, thereafter, they abused the respondent No.2 on caste basis and threatened to set her hut on fire.

4. The appellants have annexed an affidavit dated 14th July, 2017, filed by the respondent No.2/complainant in the proceedings taken out by them for bail, a copy of which is annexed at “Exhibit 12” therein. In this affidavit, the respondent No.2 has averred that the incident as narrated in the FIR never occurred. In this affidavit, the respondent No.2 has stated that she had no idea as to who had set her house on fire and that out of misunderstanding, allegations are made against the appellants. The respondent No.2 is personally present before the Court. On our specific query about the genuineness in respect of the allegations made in the FIR, she repeated and reiterated her stand taken in the aforesaid affidavit. The identity of the respondent No.2 is verified by the learned APP on the basis of her Aadhaar Card.

5. In the above circumstances, we are of the opinion that the appellants are entitled for anticipatory bail. The criminal appeal is, accordingly, disposed off by passing the following order:

1. The impugned order dated 1st August, 2017, passed by the learned Special Judge and Additional Sessions Judge, Satara, below application at "Exhibit 1" in criminal M.A. No.309/2017 is quashed and set-aside.

2. In the event of the arrest of the appellants in the subject FIR No.102 of 2017, they shall be released on bail on execution of a PR Bond in the sum of Rs.25,000/- by each of the appellant with one or two sureties in the like amount.

The criminal appeal stands disposed off.

[SMT. SADHANA JADHAV, J.]

[RANJIT MORE, J.]