

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO.845 OF 2018

1) PRAKASH YASHWANT BHOSALE)
2) DATTATRAYA DINKAR BHOSALE)
3) POPAT BABURAO BOBADE)
4) HANMANT HARIBHAU MULIK)
5) MAHESH TUKARAM KASHID)
6) VIJAY THAKSEN RAYATE)...APPELLANTS

V/s.

THE STATE OF MAHARASHTRA & ANR.)...RESPONDENTS

Mr.Shriram Chaudhari, Advocate for the Appellants.

Mr.Ganesh Bhujbal, Advocate for Respondent No.2.

Mr.S.V.Gavand, APP for the Respondent - State.

CORAM : A. M. BADAR, J.

DATE : 17th SEPTEMBER 2018

P.C. :

1 Six appellants are accused in Crime No.203 of 2018 registered with Police Station Phaltan (Rural), District Satara, for offences punishable under Sections 3(2)(V-A) and 3(1)(r)(s) of the Scheduled Castes and Scheduled Tribes (Prevention of

Atrocities) Act as well as under Sections 324, 504, 427 143, 147 148, 149 of the Indian Penal Code. By this appeal, they are challenging the order dated 25th June 2018 passed below Exhibit 1 in Criminal Miscellaneous Application No.433 of 2018 by the learned Additional Sessions Judge, Satara.

2 Heard the learned counsel appearing for the appellant/accused. He argued that even if the First Information Report (FIR) is accepted as it is, then also no offence punishable under Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act is made out, and therefore, as rest of offences are bailable in nature, the appeal deserves to be allowed.

3 The learned APP opposed the application by contending that in view of bar of Section 18 of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, the appellants are not entitled to be released on anticipatory bail and the learned trial court was justified in rejecting the application for anticipatory bail.

4 Shri Bhujbal, the learned counsel appearing for respondent no.2, vehemently opposed the appeal by contending that the appeal itself is not maintainable as the appellants are not entitled to be granted anticipatory bail in view of invocation of Section 18 of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act.

5 I have considered the rival submissions and also perused the entire record made available. The incident in question took place on 22nd May 2018 at Village Gunaware in Phaltan Taluka of Satara District. It is averred that Sachin Kharat was beaten by some young persons from Kansewasti. Sachin Kharat narrated the incident to First Informant/respondent no.2 Sagar Aadhav. Hence, Sagar Aadhav accompanied by other young persons went to Kansewasti by motorcycle. The FIR itself reveals that this was done in order to give understanding to the young persons of Kansewasti. Then, according to the prosecution case, at Kansewati accused Ganesh Bhosale had assaulted First

Informant Sagar Aadhav. Other five to six persons also assaulted Sagar Aadhav and young persons accompanying him.

6 The FIR does not contain names of applicants/accused persons as assailants. The FIR does not disclose any averment regarding intentional insult or intimidation with intent to humiliate members of the Scheduled Castes. Infact, it is not seen that the accused persons were knowing that the victims of the crime in question were members of the Scheduled Castes. As the papers of investigation are not making out any case for the offence punishable under the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, bar of Section 18 is not applicable to the case in hand. Other offences alleged against appellants are bailable in nature. In this view of the matter, the learned Additional Sessions Judge, Satara, committed error in holding that in view of bar under Section 18 of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, appellants are not entitled to be released on anticipatory bail. The impugned order, as such, cannot be sustained in the eyes of law. Therefore, the

order :

ORDER

- i) The appeal is allowed.
- ii) The impugned order dated 25th June 2018 passed by the learned Additional Sessions Judge, Satara, in Criminal Miscellaneous Application No.433 of 2018 is quashed and set aside.
- iii) In the event of their arrest in Crime No.203 of 2018 registered with Police Station Phaltan (Rural), District Satara, for offences punishable under Sections 3(2)(V-A) and 3(1)(r)(s) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act as well as under Sections 324, 504, 427 143, 147 148, 149 of the Indian Penal Code, appellants be released on bail on their executing P.R.Bond in the sum of Rs.15,000/- each, and on furnishing surety in like amount, by each of them.

- iv) As a condition of this order, appellants/accused should not make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the court or to any Police Officer.
- v) Appellants/accused should attend the Police station as and when directed by the Investigating Officer for the purpose of investigation.
- vi) The appeal stands disposed off accordingly.

(A. M. BADAR, J.)