

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPEAL NO. 1251 OF 2018

Rahul Krushnat Sanas & ors.

..Appellants.

V/s.

The State of Maharashtra & anr.

..Respondents.

Mr. Niranjan Mudargi I/b. Mr. Vaibhav Ramchandra Gaikwad, advocate for appellants.

Mr. S.R. Phanse, advocate appointed for respondent No. 2.

Mr. Y.M. Nakhwa, APP for State.

Ms. Prerana Jeevan Katte, DYSP, Satara Gramin Camp, Koregaon.

CORAM : SMT. SADHANA S. JADHAV,J.

DATE : NOVEMBER 28, 2018.

P. C. :

1 Heard the learned Counsel for the appellants and the learned APP for State.

2 This is an appeal filed under section 14A of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989. It is the case of the prosecution that on 24/9/2018 respondent herein i.e. Rupesh Sapkal lodged a report at Koregaon Police Station alleging therein that on 24/9/2018 one Mr. Kishor Bachal was to visit Budhavihar to address the members of the community in respect of the elections of the gram panchayat. After meeting was over, present appellants had been on the spot and had levelled abuses against the complainant and his associates

Talwalkar

with reference to their caste. Thereafter, the appellants had also threatened the complainant and had informed that they are supported by one Deepak Sanas and that they would set ablaze budha locality. On the basis of the said report, Crime No. 262 of 2018 is registered at Koregaon Police Station against the appellants for the offence punishable under section 3(1)(R)(S) and 3(2)(Va) and 6 of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act and 504 and 506 read with section 34 of the Indian Penal Code.

3 Upon registration of the Crime, the appellants are arrested on 25/9/2018 and have been remanded to judicial custody on 26/9/2018 and since then they are in custody. The investigation is completed and charge-sheet is filed on 27/11/2018.

4 The learned APP has vehemently objected the grant of bail and has submitted that the appellants herein have been the cause of law and order situation in the village and that they do not deserve to be released on bail as the statements of the witnesses recorded under section 164 of the Code of Criminal Procedure, 1973, corroborates the report lodged by the first informant.

5 As against this, the learned Counsel for the appellants has

submitted that in fact, the complainant had contested the election to the grampanchayat. He was elected. He was aspiring to be elected to the post of deputy sarpanch. That Deepak Sanas is the sarpanch of the village. That the complainant has filed election petition before the Collector at Satara on 17/7/2018 and has alleged that in fact, Deepak Sanas had voted in favour of Ashok Sanas and therefore, he was elected as the Deputy Sarpanch and that the complainant was defeated. It is submitted that he was aggrieved by the same. And therefore, the present complaint is political motivated. It is also submitted that on 4/8/2018, the complainant has filed an application before Block Development Officer, Panchayat Samiti, Koregaon alongwith his associates and has stated that they would indulge into self immolation on 15/8/2018 in the eventuality that their demands were not fulfilled. One of the ground is that the ward in the village is in opposition of the complainant and they have conspired to see that the said community would not get privileges of the rules framed by the government.

6 It is also submitted that on 10/9/2018 Deepak Sanas in the capacity of Sarpanch has filed report to the Collector against the complainant and therefore, the complainant being aggrieved by the said acts on the part of the Sarpanch has filed present report. Similarly, the application was filed before the Special Court by the complainant on

29/9/2018 that two accused are absconding. The said two accused are Deepak Sanas and Eknath Jarande. In fact, Deepak Sanas is protected by this Court(Coram : A.M. Badar, J) vide order dated 30/10/2018 in Criminal Appeal No. 1316/2018.

7 The complainant is present in the court. In fact, the complainant was present before this Court on 2/11/2018, 22/11/2018 as well as 26/11/2018. However, he remained incognito. He has chosen not to cause his appearance through advocate or through himself. It appears that on 26/11/2018 he had approached legal aid cell and today in the course of hearing of this application, legal aid committee has sent message that the advocate Mr. Shantanu Phanse would espouse the cause of the complainant.

8 In view of the fact that the appellants are in custody for more than 2 months and that the investigation is completed and charge-sheet is filed, they would be entitled to be enlarged on bail. That further incarceration would be unwarranted and unjustified.

9 Taking into consideration, the role attributed to the appellants and the fact that they have been in custody for more than 60 days and the sentence contemplated for the alleged offence is imprisonment for term which shall not be less than 6 months, which may extend to 5 years

and fine. In view of this, the appellants deserve to be enlarged on bail.

10 Hence following order is passed :

ORDER

(i) The appeal is allowed.

(ii) The appellants be enlarged on bail on furnishing P.R. Bond in the sum of Rs. 20000/- each and one or more solvent sureties in the like amount.

(iii) The appellants shall report to the concerned Police station as and when called.

(iv) The appellants shall be enlarged on cash bail for a period of four weeks within which they shall furnish sureties to the satisfaction of the Special Court.

11 The application is disposed of on the above terms.

The parties to act on the authenticated copy of this order.

[SMT. SADHANA S. JADHAV, J.]