

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO.14 OF 2018

Bharat Gajanan Deshmukhe,
Age 37 years, Occu. Service,
R/o.House No.1939,
E Swami Samarth Niwas,
Behind Idea Tower, Kadam Wada,
Vita, Tal.Khanapur,Dist.Sangli ... **Appellant**

V/s.

1. Dinesh Lotu Pawar,
Age : 48 years, Occu: Service,
R/o.Salve, Tal.Dharangaon,
Dist.: Jalgaon.
At present : Government Quarters,
Near ST Stand, Vita,
Tal.Khanapur, Dist.:Sangli.
- 2 The State of Maharashtra,
(At the instance of Vita
Police Station, Sangli) ... **Respondents**

.....
Mr.R.A.Naik i/b. Mr.Umesh R. Mankapure, Advocate for the
Appellant.

Mr.Sarwadnuya S. Kadtane i/b. Mr.Kuldeep U. Nikam, Advocate
for the Respondent No.1.

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

Mr.S.J.Mulla, ASI, Vita Police Station, District Sangli is present.

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CORAM : A.M.BADAR J.

DATED : 31st JULY 2018.

ORAL JUDGMENT :

1 Heard.

2 Admit. Heard finally by consent of parties.

3 By this appeal, the appellant/accused is challenging the Order dated 02/01/2018 passed by the learned Special Judge, Sangli in Criminal Application bearing No.1123 of 2017, by which the appellant had claimed anticipatory bail in Crime No.401 of 2017 registered with Vita Police Station, District Sangli for the offences punishable under Section 506 of the Indian Penal Code as well as under Section 3(1)(r)(s) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act (hereinafter referred to as 'Atrocities Act' for the sake of brevity).

4 Facts in brief leading to the institution of the crime in question are thus :

(a) First Informant/respondent No.1 Dinesh Pawar is in employment of Panchayat Samittee as clerk. According to the prosecution case, he belongs to the Scheduled Tribes. Appellant/accused Bharat Deshmukhe is working as peon in the Panchayat Samittee. Both of them were having inimical

relations. The appellant/accused used to give taunts to the respondent/First Informant and because of complaint of respondent No.1/First Informant, the appellant/accused was transferred from Vita to Dhanwad.

- (b) The incident in question took place on 11th November 2017, when the respondent No.1 Dinesh Pawar was proceeding to his house. The appellant/accused met him at the gate of the office and questioned him as to why the respondent No.1/First Informant is making his complaint to the superior officer. Then he gave castiest abuses to the respondent No.1/First Informant. The complaint of this fact came to be lodged by the respondent No.1/First Informant on 01/12/2017, which ultimately resulted in registration of Crime No.401 of 2017 with Police Station, Vita, District Sangli for offences punishable under Sections 506 of Indian Penal Code and under Section 3(1)(r)(s) of the Atrocities Act.
- (c) The appellant/accused then preferred an application for anticipatory bail before the learned Special Judge at Sangli and by the impugned Order dated 02/01/2018 same came to be dismissed principally on the ground that as there is *prima faice* material for holding that the offence punishable under Section 3(1)(r)(s) of the Atrocities Act has been committed, bar of Section 18 of the said Act is applicable and, therefore,

the relief, as claimed, cannot be granted. This Order is impugned in the instant appeal.

5 Heard the learned Advocate appearing for the appellant/accused. He argued that the FIR is lodged belatedly and the same is false. The learned Advocate further argued that the incident even if accepted as it is reported in the FIR, then also the same did not take place within public view.

6 As against this, the learned Advocate appearing for the respondent No.1/ First Informant opposed the contentions so raised and supported the impugned Order. He argued that in the light of bar of Section 18 of the Atrocities Act, appeal as framed and filed is not maintainable.

7 The learned Additional Public Prosecutor placed on record police report stating that after investigation of the crime in question, it is found that because of inimical relations, the respondent No.1/First Informant had lodged maliciously false FIR.

8 I have carefully considered the rival submissions and also perused the material placed on record.

9 After investigation of the crime in question, the Investigating Officer has come to the conclusion that the complaint is maliciously false. In this view of the matter, the impugned Order of rejection of application for anticipatory bail cannot be

sustained. Moreover, the FIR itself discloses that the incident did not take place within the public view. Therefore, the Order :

ORDER

- (i) The Appeal is allowed.
- (ii) The impugned Order dated 02/01/2018 passed by the learned Additional Sessions Judge, Sangli below Exh.1 in Bail Application No.1123 of 2017 is quashed and set aside.
- (iii) The anticipatory bail application as moved by the appellant/accused is allowed.
- (iv) In the event of his arrest in Crime No.401 of 2017 registered with Police Station Vita, the applicant/accused be released on bail on his executing P.R.Bond of Rs.15,000/- and on furnishing surety in the like amount.
- (v) As a condition of this Order, the appellant/accused should co-operate the Investigating Officer in investigation of the crime.
- (vi) The Appeal is accordingly disposed of.

(A.M.BADAR J.)

Raju
Dattatraya
Gaikwad

Digitally signed by
Raju Dattatraya
Gaikwad
Date: 2018.08.01
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Gaikwad RD