

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

CRIMINAL APPEAL NO. 631 OF 2017

Ms. Trupti Prashant Desai and Ors.	}	Appellants
versus		
The State of Maharashtra and Anr.	}	Respondents

Mr. Pravin U. Gaikwad for the appellants.

Mr. Shantanu R. Phanse for respondent
no. 2.

Ms. M. H. Mhatre-APP for State.

**CORAM :- S. C. DHARMADHIKARI &
PRAKASH. D. NAIK, JJ.**

DATED :- APRIL 23, 2018

P.C. :-

1. By this appeal, the appellants are challenging an order refusing anticipatory bail. The Scheduled Caste and Scheduled Tribe (Prevention of Atrocities) Act, 1989 (hereinafter referred to as "the SCST Act") was invoked and particularly sections 3(1) (r), 3(2) (va) and section 6 on an allegation that the complainant, resident of Shrirampur, District - Ahmednagar was proceeding to Mumbai via Balewadi Stadium. When he reached the service road by his four wheeler, appellant no. 1, sat in his vehicle and other appellants Prashant Desai, Satish Desai and Kantilal Gaware

came with their Ertiga four wheeler. They stopped the vehicle. The first appellant snatched the Samsung mobile instrument and another instruments from his custody and appellant no. 1 is alleged to have told Prashant Desai that there is evidence against her in his mobile. After that, the complainant was assaulted by all. They came inside his vehicle and assaulted him by sticks and iron rod. They snatched his gold chain and the appellant no. 4 is stated to have snatched some of Rs.27,000/- from his pocket. Thereafter, since the complainant belongs to Mahar community, they appellants abused him in the name of caste.

2. Thereafter, this news gains publicity, but the only allegation while making the request for anticipatory bail is that the complaint is made after 10 days of this incident. There appears to be a patent falsity in the version of the complainant. Such complaints are always made on account of disputes and differences and particularly when one is running an organisation. All the appellants claim that they are social workers and have never abused the complainant in the name of his caste. The whole incident is, therefore, a figment of imagination of this complainant and also there is a document, which would prove that the complainant does not belong to Scheduled Caste for he has allegedly converted himself from Hinduism to Christianity.

3. With the assistance of the appellants' advocate, we have perused the copy of the FIR. That copy is available from pages 18 to 20. There is a statement of the complainant to the above effect and narrating as to how some of the appellants got into his vehicle and thereafter he was followed. The appellants were armed with sticks and iron rods. There is an incident of assault. Thereafter, a threat was given to him by appellant no. 1 and finally, all of them abused him. The appellants have been named specifically by the complainant. He has also set out as to how he was abused and has given an explanation for the delay in lodging the FIR. He says that on account of medical reasons and because he was undergoing medical treatment, he could not lodge this FIR earlier.

4. We are not going into the truth and falsity of the allegations at this stage. Once this complaint is perused in its entirety, particularly in the backdrop of the provisions of the SCST Act and the mandate of section 18 thereof, we cannot term this complaint as a patent false version. Merely because the complaint was made after some time, does not mean that ingredients of section 3(1)(r) are not, *prima facie*, satisfied. The FIR also invokes section 3(2)(va), which has been inserted by Act I of 2016. We do not think that at this stage we should express any opinion and

particularly whether these provisions and the ingredients thereof are satisfied. We have reproduced in brief the version of the complainant and particularly in the backdrop of the submissions of the appellants' counsel that the version of the complainant is false and concocted. We have not been shown any material with regard to the alleged conversion of the complainant from Hindu religion to Christianity. *Prima facie*, making a submission across the bar and with regard to this alleged conversion would not suffice.

5. In these circumstances, we do not think that a case for anticipatory bail is made out. The appeal is dismissed.

(PRAKASH.D.NAIK, J.)

(S.C.DHARMADHIKARI, J.)