

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO.1238 OF 2018

Balasaheb Annasaheb Dhavale,
Age 54 Years, Occu. : Agriculturist,
R/o.Sapatane (T), Tal.-Madha,
Dist.-Solapur.

(At Present in District Prison,Solapur.) ... **Appellant**
V/s.

1. The State of Maharashtra

2. Dattatraya Baban Farade,
R/o.Bhoinje, Tal. Madha,
District . - Solapur. ... **Respondents**

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Mr.M.S.Mohite i/b. Mr.Ashish Sawant, Advocate for the Appellant.

Mr.P.H.Gaikwad-Patil, APP for the Respondent No.1/State.

Mr.Yogiraj B. Purwant h/f. Mr.V.V.Purwant, Advocate for the
Respondent No.2.

Mr.S.N.Dhakane, Police Inspector, Tembhurni Police Station is
present in person

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CORAM : A.M.BADAR J.

DATED : 22nd OCTOBER 2018.

ORAL JUDGMENT :

1 Heard.

2 Admit.

3 Heard finally considering the fact that the appeal
pertains to rejection of application for regular bail in Crime
No.182 of 2017 for offences punishable under Sections 3(1)(r) of
the Scheduled Castes and Scheduled Tribes (Prevention of
Atrocities) Act, 1989 (hereinafter referred to as 'Atrocities Act' for
the sake of brevity) and under Section 7(1)(d) of the Protection of
Civil Rights Act, 1955.

4 Shri.Mohite, the learned Counsel appearing for the
appellant/accused argued that the learned trial Court erred in
considering extraneous material to the effect that there are
thirteen cases pending against the accused and externment
proceedings is in progress. There was no such material on record
of the learned trial Court to come to this conclusion. He further
argued that investigation of the crime in question is over and
lodging of the FIR by Dattatraya, who is employee of Janardan
Dhavale is a counter-blast to the crime registered at the instance of
Arun Khandagale, who happens to be employee of the present
appellant.

5 The learned Additional Public Prosecutor argued that
even the Honourable Apex Court has held that the case for the

offence punishable under Section 3(1)(r) of the Atrocities Act is made out and therefore, the appellant/accused is not entitled for bail. He further submitted that charge-sheet will be submitted within eight to ten days and, therefore, the appellant/accused is not entitled for bail.

6 The learned Counsel for the First Informant argued that considering the nature of allegations against the appellant/accused, who has history of several crimes against him, he is not entitled for bail.

7 I have considered the submissions so advanced and also perused material placed on record.

8 In fact, a day earlier to the lodging of the FIR by respondent No.2 Dattatraya Farade, Arun Khandagale, who happens to be employee of appellant Balasaheb had lodged report against Janardhan Dhavale – a political rival in the village. Therefore, *prima facie*, it appears that another FIR is lodged on the very next day, wherein it is averred that the appellant has given casteist abuses and threatened respondent No.2 Dattatraya Farade.

9 Shri.Mohite, the learned Counsel for the appellant/accused placed on record copies of Judgments showing that in almost all cases, the appellant/accused is either acquitted or discharged. It is also seen that the externment proceedings against the appellant/accused are also dropped.

10 Be that as it may, now even according to the learned Additional Public Prosecutor investigation of the crime in question is over. Therefore, further pre-trial detention of the appellant/accused is not warranted. Hence, the Order :

ORDER

- (i) The Appeal is allowed.
- (ii) The impugned Order dated 10th October 2018 passed below Exhibit 1 in Criminal Bail Application No.461 of 2018 by the learned Additional Sessions Judge, Barshi is quashed and set aside.
- (iii) The application of the appellant for grant of bail in Crime No.182 of 2017 registered with Police Station, Tembhurni, Solapur Rural is allowed.
- (iv) The appellant/accused is directed to 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 not indulge in commission of any crime in future and he should not contact the prosecution witnesses in any manner.

(vi) As a condition of this Order, the appellant/accused should not extend any threat inducement 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.

(vii) The Appeal is disposed of accordingly.

(A.M.BADAR J.)