

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO. 990 OF 2017

Mrs.Yamuna Maruti Lokhande & anr. ... **Appellants**

V/s.

The State of Maharashtra & anr. ... **Respondents**

Mr.Ranjeet M. Pawar for the appellants.

Ms.Anamika Malhotra, APP for the applicant/State.

Mr.Rapesh A. Zade for respondent no.2

CORAM : A.M.BADAR J.

DATED : 14th JUNE 2018.

P.C. :

1. The appellants/accused by this appeal are challenging order dated 21st November, 2017 passed by the learned Additional Sessions Judge, Baramati thereby rejecting their application for anticipatory bail application in Criminal Anticipatory Bail Application No.753 of 2017 registered with Baramati Taluka Police Station, Baramati for offences punishable under Sections 504, 506 of the Indian Penal Code as well as under Sections 3(1)(r)(s) and 3(2)(va) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 and under

Section 7(1)(d) of the Protection of Civil Rights Act, 1955.

2. Heard learned Advocate appearing for the appellant/accused persons. He vehemently argued that prior to the incident alleged by the first informant, applicant no.1 Yamuna Lokhande came to assaulted and her modesty was outraged by the first informant Prashant Thorat. He drew my attention to the FIR in Crime No.540 of 2017 lodged by Yamuna Lokhande and submitted that though the incident against her took place prior to incident alleged by the first informant Prashant Thorat, as she was referred to hospital, her FIR came to be registered belatedly. He, therefore, submits that as the chargesheet has already been filed, custodial interrogation of the present applicant is not at all warranting and as such the learned lower Court erred in rejecting the application for anticipatory bail moved by the applicants.

3. The learned Advocate appearing for the first informant /respondent no.2, opposed the application by contending that there was dispute between parties over removal of encroachment. The learned Additional Public Prosecutor opposed the application by contending that version of the first informant corroborated by the version of Shafiq Bagwan and Rizwana Bagwan.

4. I have carefully considered rival submissions and also perused record made available. Undisputedly, out of said incident two FIR came to be lodged, one by the first informant/respondent no.2 Prashant Thorat and another by the applicant no.1 Yamuna Lokhande. The first FIR was lodged by Prashant Thorat resulted in registration of the subject crime under the provisions of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 and other Acts. Section 3(1)(r)(s) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 deals with intentionally insulting or intimidating with intention to humiliate a member of a Scheduled Caste and a Scheduled Tribe in any place within public view whereas Section 3(2)(va) of the said Act deals with abusing any member of the Scheduled Caste and Scheduled Tribe by caste name in any place within public view. Section 18 of the Act provides bar from granting anticipatory bail in such offences punishable under the said Act.

5. The Court can grant anticipatory bail in offence punishable under the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act provided no prima facie case is made out for the offence under the said Act on the basis of material collected by the investigator including the FIR. In the case in hand, the FIR was lodged by Prashant Thorat

reflects commission of offence punishable under Sections 3(1)(r)(s) and 3(2)(va) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989. *Prima facie* his averments are corroborated by two witnesses. The incident in question took place in public view and therefore it cannot be said that bar of Section 18 of the said Act is not applicable to the case in hand.

6. In the light of the foregoing discussion, no infirmity can be found in the impugned order dated 21st November, 2017 passed by the learned Trial Court in Criminal Anticipatory Bail Application No.753 of 2017 resulting rejection of Bail. Hence, the order;

:: ORDER ::

The appeal is dismissed.

(A.M.BADAR J.)