

**IN THE HIGH COURT OF JUDICATURE OF BOMBAY,
BENCH AT AURANGABAD.**

CRIMINAL APPEAL NO.731 OF 2019

Dr. Manoj s/o Bhalchandra Patil
Age : 56 years, Occu : Medical Practitioner
(Doctor), R/o. Vivekanand Nagar,
Bhadgaon Road, Pachora, Tq. Pachora,
Dist. Jalgaon

.. Appellant

Versus

1. The State of Maharashtra
Through : The Police Inspector,
Pachora Police Station,
Pachora, Dist. Jalgaon

2. Shantaram Shenfadu Surwade
Age : 35 years, Occu : Labour,
R/o. Pungaon, Tq. Pachora,
Dist. Jalgaon

.. Respondents

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Advocate for Appellant : Shri M.S. Deshmukh
APP for Respondent No.1 - State : Shri S.J. Salgare
Advocate for Respondent No.2 : Shri N.S. Ghanekar

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CORAM : P.R.BORA, J.

Reserved on : 09.08.2019

Pronounced on: 30.08.2019

JUDGMENT :

1. The appellant has preferred the present appeal against the order dated 10.06.2019 passed by Additional Sessions Judge, Jalgaon in Criminal Bail Application No.438 of 2019. Aforesaid application was filed by the present appellant seeking pre-arrest bail in Crime No.210 of 2019 registered at Pachora Police Station, Tal. Pachora, Dist. Jalgaon for the offences punishable under Section 3(1)(r)(s) of the Scheduled Castes and the Scheduled Tribes

(Prevention of Atrocities) Act, 1989 (hereinafter referred to as the 'Atrocities Act') along with Sections 504 and 506 of Indian Penal Code (hereinafter referred to as the 'I.P.C.').

2. Respondent No.2 has filed the report against the present appellant alleging that, on 13.05.2019 at about 07:00 a.m. when he had been for work to the field bearing Gat No.127/1 belonging to one Smt Anupama Ranjit Patil, he saw the present appellant breaking the lock of the iron gate to the compound made around the said field. As per the further contention of respondent no.2 in his said report, when he restrained appellant from doing so, the appellant abused him and also hurled the abuses on his caste and also threatened him with his life. It was further averred in the said report that, at that time one Sunil Prabhakar Bhosle and Bapu Mahadu Choudhari had reached at the spot and in their presence, the appellant abused and humiliated him on his caste.

3. After having come to know that respondent-2 has filed such report at the Pachora Police station, appellant filed an application before the Sessions Court bearing Criminal Bail Application No.438 of 2019 seeking anticipatory bail in the aforesaid crime. The learned Additional Sessions Judge, after having considered the contentions raised on behalf of the appellant and the material placed on record by the Investigating Officer, rejected the

application of the appellant vide the impugned order.

4. Shri Mahesh S. Deshmukh, the learned counsel for the appellant submitted that, a total false complaint has been filed against the present appellant at the instance of Smt Anupama Ranjit Patil, who happens to be the sister-in-law of the appellant. The learned counsel submitted that, civil disputes are going on between the appellant and his mother on one side and Smt Anupama Ranjit Patil on the other side. The learned counsel submitted that, brother of the appellant namely Ranjit died in an accident leaving behind certain properties. The learned counsel further submitted that, after the death of Ranjit, his wife Anupama got mutated the name of herself and her daughters to the said properties though she is fully aware that the said properties in fact belong to her father-in-law. The mutation so got effected by Anupama was objected to by the mother of deceased Ranjit and the present appellant. The learned counsel further submitted that, the Naib Tahsildar has decided the said applications vide order dated 29.04.2019. The learned counsel submitted that, the parents of the present appellant and deceased Ranjit namely Bhalchandra Onkar Patil and Kusum Bhalchandra Patil have filed the Special Civil Suit in the Court of Civil Judge, Senior Division, Jalgaon against Smt Anupama and her daughters for declaration, partition, possession and injunction. The learned

counsel submitted that, the complaint filed by present respondent no.2 is an outcome of the aforesaid civil disputes between the appellant, his parents and Anupama Ranjit Patil.

5. The learned counsel further submitted that, the appellant for himself and on behalf of his parents had filed a complaint at Police Station Pachora on 10.05.2019 against Smt Anupama Ranjit Patil, Shantaram Surwade i.e. respondent no.2 in the present appeal, Sunil Prabhakar Bhosle etc., alleging the commission of offences by them under Sections 451, 427, 323, 339, 341 and 382 r.w. 34 of I.P.C. The learned counsel submitted that, to give a counter blow to the said complaint, a total false complaint has been filed by respondent no.2 on 13.05.2019 against the present appellant. The learned counsel submitted that, in the report lodged on 13.05.2019, the name of Sunil Prabhakar Bhosle has been purposely shown as one of the witness, who is also named as an offender in the complaint lodged by the appellant on 10.05.2019. The learned counsel submitted that, the appellant was not present at the relevant time and the said fact can be ascertained from the location of his mobile. The learned counsel further submitted that, Respondent No.2 has filed the present complaint at the instance of Smt Anupama Ranjit Patil. The learned counsel further submitted that, the appellant is a renowned ENT surgeon and he is practicing at Pachora since last several years.

The learned counsel submitted that, Shantaram Surwade is a pseudo complainant and he is being used by Smt Anupama Patil to harass the appellant. The learned counsel further submitted that, with the malicious intention that the appellant shall be, in any case arrested, the concocted complaint is filed making false allegations that the appellant abused respondent no.2 on his caste. The learned counsel further submitted that, the Sessions Court has failed in appreciating the aforesaid aspects and has rejected the application filed by the present appellant on erroneous grounds. The learned counsel, in the circumstances, prayed for setting aside the said order and consequently to allow the application filed by the appellant seeking pre-arrest bail.

6. Learned APP Shri Salgare as well as learned Counsel Shri N.S. Ghanekar appearing for respondent no.2 supported the impugned order. The learned APP has made available for my perusal the investigation papers. The learned APP submitted that, *prima facie* evidence is existing against the appellant clearly attracting the offences under the Atrocities Act. The learned APP submitted that, two independent witnesses have corroborated the facts, which are stated by respondent no.2 in the report lodged by him. The learned APP further submitted that, the Trial Court has considered the circumstances and has rightly rejected the application filed by the

appellant. The learned APP submitted that, having regard to the fact that *prima facie* evidence is available and the investigation is at a preliminary stage, the Trial Court has rightly refused the application filed by the appellant.

7. Learned Counsel Shri Ghanekar appearing for Respondent no.2 relying on the judgment of the Hon'ble Apex Court in the case of **Vilas Pandurang Pawar & Anr Vs. State of Maharashtra & Ors, 2012 ALL MR (Cri) 3743 (S.C.)** submitted that, the scope of Section 18 of the Atrocities Act r.w. Section 438 of the Code is such that, it creates a specific bar in the grant of anticipatory bail. The learned counsel submitted that, unless it is *prima facie* noticed that such an offence is not made out, no Court shall entertain the application for anticipatory bail. The learned counsel further submitted that, while deciding such applications, the scope for appreciation of evidence is very limited. The learned counsel further submitted that, at this stage no critical analysis can be made by this Court of the evidence on record. The learned counsel further submitted that, in view of the law laid down as above by the Hon'ble Apex Court, the appellant has not made out any case for causing any interference in the order passed by the learned Additional Sessions Judge. The learned counsel submitted that, the specific allegations are made by respondent no.2 that he was abused

by the appellant on his caste. The learned counsel further submitted that, two independent witnesses have corroborated the allegations made in the FIR by respondent no.2. In the circumstances, according to the learned counsel, it is not possible at this stage to draw any inference or to record any finding that, the allegation made by the complainant in the report lodged by him are false. The learned counsel, therefore, prayed for rejecting the appeal filed by the appellant.

8. I have given due consideration to the submissions made by the learned counsel appearing for the respective parties. I have perused the impugned order as well as the other material placed on record. The appellant has placed on record the copy of the plaint in Special Civil Suit No.34 of 2019. The said Special Civil Suit is filed by the parents of the present appellant against Smt Anupama Ranjit Patil and her two daughters for declaration, partition, possession and injunction. The said suit is filed in the Court of Civil Judge, Senior Division, Jalgaon on 01.04.2019. The agriculture land Gat No.127/1 situated at village Pungaon, Tq. Pachora, Dist. Jalgaon is one of the subject property in the said suit. It is the contention of the plaintiffs in the said civil suit that, the properties, which were standing in the name of their deceased son Ranjit Patil, were in fact purchased by plaintiff no.1 from his own income. It further seems to be the

allegation of the plaintiffs against the defendant therein namely Anupama w/o. Ranjit Patil that, she had attempted to record her name with her daughters being the legal heirs of deceased Ranjit, though she is fully aware that the said properties are owned by plaintiff no.1 - Bhalchandra Onkar Patil. The appellant has also placed on record two orders passed by Naib Tahsildar, Pachora one pertaining to agriculture land Gat No.98/1/B and another pertaining to agriculture land Gat No.127/1 situated at village Pungaon. Both the decisions are rendered on 29.04.2019.

9. From the aforesaid documents, it becomes clear that, the civil disputes in regard to the properties are pending between the present appellant, his parents and Smt Anupama Ranjit Patil - sister-in-law of the present appellant. In the complaint filed by Respondent No.2 on 13.05.2019, the land involved is Gat No.127/1 situated at village Pungaon, which as I have noted herein above is one of the subject property of the civil disputes. The appellant has also placed on record the copy of the complaint lodged by Anupama Ranjit Patil on 09.05.2019 and the copy of the complaint filed by him on 10.05.2019. In both the aforesaid complaints and in the report lodged by respondent no.2 on 13.05.2019, the reference is to the land Gat No.127/1 situated at village Pungaon. In the aforesaid complaints, Smt Anupama Ranjit Patil and Dr. Manoj Bhalchandra

Patil have made rival allegations against each other. In the complaint lodged on 09.05.2019 by Smt Anupama Patil, she has made complaint against the present appellant that, the appellant had unauthorisedly entered into Gat No.127/1 and has put his lock to the compound of the said field and has appointed one Amrut Suryawanshi as a watchman and has also displayed a board reflecting that, the said agriculture land belongs to Bhalchandra Onkar Patil. As against it, in the complaint lodged by the present appellant for himself and on behalf of his parents, it is alleged that, Smt Anupama Ranjit Patil entered into the said land Gut No.127/1 with Shantaram Surwade and Sunil Bhosle and others with iron bars and sickle with the wrongful intention of committing trespass and causing hurt to the parents of the present appellant.

10. In background of the aforesaid two complaints, if the third complaint dated 13.05.2019 is perused, the only addition is that, the complainant therein has also made an allegation against the present appellant that, the present appellant abused him undermining his caste. As has been contended on behalf of the appellant, respondent no.2 has filed the aforesaid complaint at the behest of Anupama Ranjit Patil. Considering the pending civil disputes and the events occurred on 09.05.2019 and 10.05.2019, the allegation so raised cannot be said to be baseless.

11. Contents of the FIR lodged by Respondent No.2 on 13.05.2019 revealed that, it is the contention of respondent no.2 that, he always go to the field of Smt Anupama Ranjit Patil as a labour. It is also contended that, on 13.05.2019 at about 07:00 a.m. he had been to the agriculture land Gat No.127/1 to work as an agriculture labour. The police papers revealed that, the Investigating Officer has recorded the supplementary statement of the informant Shantaram (Respondent-2) on 14.05.2019. In the supplementary statement, respondent no.2 has stated that, he had been going to the field of Anupama since 15 to 20 days prior to the date on which the supplementary statement was recorded as a watchman to perform the duty of watchman on the monthly salary of Rs.7,000/-. It is evident that, in the supplementary statement he has made an improvement stating that, he was employed by Anupama to perform the duty of a watchman and he was performing the said duty since prior to 15 to 20 days. The facts so stated by informant – Shantaram (Respondent No.2 herein) in his supplementary statement leads to an inference that, he was employed by Anupama Patil as a watchman in the agriculture land Gat No.127/1 from the beginning of May-2019. In premise of the facts which are disclosed by respondent no.2 in his supplementary statement if the contents of the complaint lodged by Anupama Patil to the police station at Pachora on 09.05.2019 are perused, there is no reference of respondent no.2

Shantaram in the said report. As I have noted herein above, in the report lodged on 09.05.2019 it was the complaint of Anupama Patil that, on the said date at about 06:00 p.m. when she visited the said field she found the lock put by her to the compound of the said field broken and one person by name Amrut Suryawanshi present there, who, as stated in the said report, was allegedly appointed by the present appellant as a watchman. The question arises, if respondent no.2 Shantaram was appointed as a watchman by Anupama Patil from the beginning of May- 2019, where was he when as alleged by Anupama Patil in her report dated 09.05.2019 the present appellant entered in the said field and broke the lock. As has been stated by Respondent No.2 in his supplementary statement recorded on 14.05.2019, had he been working in the agriculture land Gut No.127/1 as a watchman from the beginning of May-2019, his reference must have come in the report lodged by Anupama on 09.05.2019. Secondly, had respondent no.2 been working as a watchman in the said field, he would have certainly stated in the FIR lodged by him on 13.05.2019 or in supplementary statement recorded on 14.05.2019 about the incident allegedly occurred on 09.05.2019 as per the report lodged by Anupama. The reasonable doubts are, therefore, created about the incident narrated by respondent no.2 in his report dated 13.05.2019. The reasonable doubts are also created, whether in fact respondent no.2 had ever

worked with Smt Anupama Patil as an agriculture labour or a watchman.

12. In the report lodged on 10.05.2019 by the present appellant, he has alleged that, Smt Anupama Patil forcibly entered into agriculture land Gat No.127/1 alongwith Sunil Prabhakar Bhosle, Shantaram Surwade etc. As noted herein above, it is the contention of the appellant that the complaint lodged by Respondent No.2 on 13.05.2019 is only with an intent to give a counter blow to the complaint lodged by him on 10.05.2019. The contention so raised is difficult to be ruled out. There also appears substance in the contention raised on behalf of the appellant that, the name of Sunil Prabhakar Bhosle is purposely shown as a witness to the alleged incident, who is also named as one of the offender in the report lodged by the appellant on 10.05.2019.

13. There cannot be a dispute in regard to the law laid down by the Hon'ble Apex Court in the case of **Vilas Pandurang Pawar** (cited supra) relied upon by learned counsel Shri Ghanekar appearing for Respondent No.2. However, the observations made and the finding recorded in the said Judgment cannot be interpreted to mean that, the averments made in the complaint are to be implicitly relied upon without any scrutiny thereof. In the present

matter, the allegations made in the report dated 13.05.2019 lodged by respondent no.2 does not inspire any confidence having regard to the circumstances, which are there on record. Though no critical analysis can be made of the evidence and the other material on record, the facts which apparently reveal and the inferences which naturally emerge cannot be ignored. The evidence and the other material on record *prima facie* leads to an inference that, respondent no.2 has filed the alleged complaint at the behest of Smt Anupama Ranjit Patil and is an outcome of the family dispute between the appellant and the said Smt Anupama Ranjit Patil, which is basically civil in nature.

14. In the aforesaid circumstances and for the reasons stated above, the impugned order cannot be sustained. Individual liberty of a person assumes vital importance. It has to be protected. The appellant has certainly made out a case for granting the relief of pre-arrest bail in his favour. Hence the following order.

ORDER

(i) The order dated 10.06.2019 passed by the learned Additional Sessions Judge, Jalgaon in Criminal Bail Application No.438 of 2019 is set aside.

(ii) The application filed by the present appellant being Criminal Bail Application No.438 of 2019 is allowed. It is ordered that, in the

event of his arrest in Crime No.210 of 2019 registered at Police Station Pachora, appellant namely Dr. Manoj Bhalchandra Patil be released on his furnishing P.R. Bond in the amount of Rs.50,000/- with one or more sureties in the like amount.

(iii) The appellant shall co-operate the Investigating Officer in completing the investigation in the aforesaid crime and shall remain present before him as and when called.

(iv) The appellant shall not indulge directly or indirectly in any such act, which would amount to tampering of the prosecution evidence.

(v) The Criminal Appeal stands allowed in the aforesaid terms.

(P.R. BORA)
JUDGE.