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

CRIMINAL APPEAL No. 12 OF 2018

Pandurang Vithhal Sorate & Anr.	...Appellants
Vs.	
The State of Maharashtra	...Respondent

Ms. Manisha Devkar i/b. Mr. Prashant S. Hagare for
Appellants
Mr. Ranjeet H. Patil for Respondent No.2
Ms. Pallavi Dabholkar – APP for the State

CORAM : SMT.SADHANA S. JADHAV, J.

DATE : JANUARY 18, 2019

P.C.:

1. Heard the learned counsel for the Appellants. The learned counsel for the Appellants has drawn the attention of this Court to the first information report and has submitted that the Complainant herein was working for Tanaji Sorate, who happens to be close kin of Pandurang Sorate i.e. present Appellant No.1. The agricultural lands of Tanaji Sorate and Pandurang Sorate are separated by a common boundary. That the present Appellants, who were giving water to the sugarcane crop. Most of the times, the excess water used to flow in the land of Tanaji Sorate, so much that on one occasion the entire crop was damaged because of excessive water. It is submitted that on 27th November, 2017, the Complainant had noticed that the excessive water from the land of Pandurang Sorate was flowing into the land of Tanaji Sorate and, therefore, he had informed the son of Tanaji Sorate i.e. Ajit Sorate.

Upon instructions of his owner Ajit Sorate, he had approached the present Appellants and apprised them of the fact that on several occasions they have been warned to be careful. The Complainant has alleged that on that count, the present Appellants had abused him by referring to his caste. The accused were aware of the fact that he belonged to the lower strata of the society.

2. The learned counsel for the Appellants submits that in fact the Complainant was known to the Appellants for more than 12 years. There was no occasion for the Appellants to abuse by reference to the caste. It is also submitted that on some occasions, there used to be some disputes between the adjacent land owners and the Appellants have been vindicated for the same.

3. The learned counsel for Respondent No.2 has vehemently objected to grant of pre-arrest bail; firstly, on the ground that there is a bar under section 18 of the Scheduled Caste and Scheduled Tribes (Prevention of Atrocities) Act and secondly, on the ground that although the Complainant was well known to the Appellants, it was not proper on their part to abuse him by reference to his caste, especially, since he was neither the owner of the land nor the beneficiary. The Complainant had only obliged his owner and had requested the Appellants to be careful. It is also submitted that there is no reason for false implication as he has no motive to falsely implicate the present Appellants.

4. Taking into consideration the recital of the FIR, the fact that the investigation is completed and charge-sheet is filed, the

custodial interrogation of the Appellants would not be imperative. Moreover, they are residents of the same village and there is every possibility that they would maintain peace and harmony of the society. In view of this, the order dated 31st January, 2018 passed by the Division Bench of this Court [Coram: B.R. Gavai & B.P. Colabawalla, JJ], granting pre-arrest bail, deserves to be confirmed in the interest of justice.

5. Hence, following order is passed:

ORDER

- (i) Criminal Appeal is allowed and stands disposed of.
- (ii) In the event of arrest of the present Appellants in Crime No. 439 of 2107 registered at Vadgaon Nimbalkar Police Station, Taluka Baramati, Dist. Pune be enlarged on bail on furnishing bail bonds in the sum of Rs.25,000/- each and one or more solvent sureties in the like amount.
- (iii) The Appellants shall report to the police station, as and when called.

[SMT.SADHANA S. JADHAV, J.]

V.A. Tikam