

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

CRIMINAL APPEAL NO.116 OF 2019

Vilas Ganpat Patil & Anr. Appellants
Vs.
The State of Maharashtra & Anr. Respondents

Mr. Raju Digambar Suryawanshi for the Appellants.
Mr. Niranjan Mundargi I/by Trisha Bhattacharya for Respondent
no.2.
Mr. S.H. Yadav, APP for the State.
Mr. G.B. Borade, API, Wada Police Station, Palghar.

Coram : **Smt. Sadhana S. Jadhav, J.**
Date : **11th March 2019**

P.C.:

- 1 Heard.
- 2 This is an appeal seeking pre-arrest bail under Section
438 of Code of Criminal Procedure under the provisions of
Scheduled Castes and Scheduled Tribes (Prevention of Atrocities)
Act., 1989.
- 3 The appellant no. 1 happens to be the Incharge-Principal
of Anand Laxman Chandavarkar School, situated at Khaniwali,

Taluka Wada, District Palghar. The complainant was working as 'Sub Teacher', since three years. It is alleged that on 28th December 2018, appellant no.1 had called upon the complainant to his cabin. The message was given by a Peon, namely Ashok Eknath Mer. He was questioned as to why he has not deposited the contribution of the students at the rate of Rs.200/- per student for celebration of Golden Jubilee of the School. The complainant had expressed that since the students belong to Adiwasis, they would not be able to deposit the exorbitant cost. The complainant had also expressed his inability to deposit the amount since he was under the medical treatment. There was a verbal altercation, upon which the complainant was constrained to tell appellant no.1 that if he does not trust on him, he should collect the contribution from the students. Appellant no.1 was annoyed and had abused the complainant by referring to his caste. He has also shown disregard for 90% students who belonged to Adiwasi tribe.

4 It is pertinent to note that this Court (Coram : A.M. Badar, J.) had observed in the order dated 13th February 2019 that

despite the fact that Ashok Mer was only eye witness of the incident, his statement was not recorded by the Police after more than 1½ months. It is for the reasons best known to the police. Learned APP submits that the statement of Ashok Mer is recorded on 20th February 2019 and he has informed the police that he has only stated before the Police that there was some altercation between the Principal and the complainant and that he had pacified the same and he does not know what was happened thereafter. It is clear that Ashok Mer was under the pressure of Incharge-Principal and therefore has not stated about the conversation between the accused and the complainant. Be that as it may, it is reported that in 2003 also the appellant was charged with an offence under the provisions of Atrocities Act, however, he has been acquitted of the said charge.

5 Taking into consideration all these aspects, this Court is not inclined to protect the appellants. The appellant no.2 happens to be the friend of appellant no.1 and there was no reason for him to be in the premises of the school during the school hours as he is not concerned with the institution.

6 In view of this, the appeal stands rejected. However, the appellants are at liberty to appear before the Special Court at Thane and seek protection. This a fit case, in which the bar of Section 18 of the said Act can be taken into consideration and therefore this Court is not inclined to grant pre-arrest bail to the accused persons.

7 The learned Special Court, Thane shall not be influenced by the observations made hereinabove as they are only narration of the incident and lapses on the part the investigating agency. The learned counsel for the appellants submits that appellant no.1 is to superannuate in June 2019 and therefore he be granted protection by this Court.

8 In view of this, the learned Special Court at Thane is requested to hear the application under Section 439 of Code of Criminal Procedure. The application be decided forthwith without being influenced by the observations of this Court.

9 In view of this, the appellants deserve protection till 5.00 pm. on 25th March 2019.

10 In the eventuality that the appellants do not appear before the Special Court at Thane by 5.00 pm. of 25th March 2019, the Police machinery would be at liberty to arrest the appellants.

(*Smt. Sadhana S. Jadhav, J*)