

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO.687 OF 2017

1. SANJAY POPAT CHORAGHE
AGE 38 YEARS, OCCU:FARMER,
2. SANTOSH POPAT CHORAGHE
AGE 33 YEARS, OCCU:FARMER,
3. POPAT BABURAO CHORAGHE
AGE 65 YEARS, OCCU:FARMER,
4. ZUMARABAI POPAT CHORAGHE
AGE 61 YEARS, OCCU:FARMER,
ALL R/AT: CHORGHE WADI, PAIT,
TAL:KHED, DIST:PUNE.

...APPELLANTS

V/s.

1. THE STATE OF MAHARASHTRA
(THROUGH CHAKAN POLICE STATION, PUNE.)
2. SHRI. GAUTAM ARJUN SONAVANE,
AGE : 46 YEARS, R/AT : CHORGE WADI, PAIT,
TAL : KHED, DIST. PUNE.

...RESPONDENTS

Shri. U.B. Nighot, Advocate for the Appellants.

Shri. P.H. Gaikwad-Patil, APP for the Respondent/State

None for the Respondent No.2.

CORAM : A.M.BADAR, J.

DATED : 10th JANUARY 2019

ORAL JUDGMENT:

1. By this appeal, the appellants/accused in Crime No.676/2017 registered with Chakan Police Station at the instance of respondent No.2 Gautam Sonavane, are challenging the Order dated 02.08.2017 passed by the learned Special Judge under the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 (hereinafter referred to as the 'Atrocities Act' for the sake of brevity) Khed, Rajgurunagar below Exhibit 1 in Criminal Bail Application No.266/2017, thereby rejecting their claim for grant of anticipatory bail.

2. Heard. None appeared for respondent No.2.

3. Admit.

4. Heard finally in view of the fact that the appeal is challenging rejection of claim of the appellants/accused for anticipatory bail in an offence under the Atrocities Act.

5. The learned counsel appearing for the appellants/accused by drawing my attention to the report of non-cognizable case

bearing No.1265/2017 registered at the instance of appellant No.1/Sanjay Popat Choraghe against respondent No.2 Gautam Sonavane argued that in the wake of lodging the report of non-cognizable case in respect of the incident occurred at 10.30 a.m. of 19.07.2017, it is not possible that the appellants/accused would assault the respondent No.2 at 12.00 noon of the same day. He further argued that the appellants/accused had lodged report on 08.07.2017 against Balvant Dangle, who happens to be member of the Grampanchayat. My attention is drawn to the report. With this, it is argued that the FIR is false and witnesses are false. Therefore, the appellants/accused are entitled for anticipatory bail.

6. The learned APP argued that the incident took place within a public view and the respondent No.2 had suffered injury in that incident.

7. I have considered the rival submissions and also perused the charge-sheet.

8. Respondent No.2 Gautam Sonavane by claiming to be

belonging to the scheduled caste has lodged report on 19.07.2017, which has resulted in registration of the subject crime. In the said report, respondent No.2 Gautam Sonavane alleged that the appellants/accused were erecting construction on the site with the help of labourers and he has approached those labourers and told them that they should not erect construction on the site as it is by way of an encroachment. Upon that, as averred in the FIR, all appellants/accused had assaulted respondent No.2 Gautam Sonavane by means of fist and kick blows. They gave him casteist abuses by uttering that persons belonging to Mahar caste became insolent. The respondent No.2 averred that because of this incident, lot of people had assembled at the square. He had named those persons in the FIR.

9. Perusal of papers of investigation reveals that respondent No.2 Gautam Sonavane had suffered injuries in the incident as certified by the medical certificate of the Primary Health Centre. The incident appears to have taken place in a place within public view as seen from statements of witnesses recorded by the Investigating Officer.

10. In this view of the matter, bar of Section 18 of the Atrocities Act applies with full force to the case in hand. No case of grant of anticipatory bail as such, was made out before the learned Special Judge. No infirmity can be found in the impugned order rejecting the application for anticipatory bail. Therefore, the order :

ORDER

The appeal is dismissed.

(A.M.BADAR J.)