

Anand

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

CRIMINAL APPEAL NO. 1302 OF 2018

Anil Yadgonda Patil & ors. .Appellants

Vs.

The State of Maharashtra & anr. .Respondents

Mr. R. A. Naik i/b. Mr. U. R. Mankapure, Advocate, for the
Appellants

Mr. S. V. Gavand, APP, for the Respondent No. 1 – State

CORAM : REVATI MOHITE DERE, J.

DATE : 02.05.2019

ORAL ORDER

. Heard learned counsel for the parties.

2. Admit.

3. Learned APP waives service on behalf of the
Respondent No. 1 – State.

4. The Appeal is taken up for final hearing at the stage of

admission.

5. By this Appeal under Section 14A of the Scheduled Castes And Scheduled Tribes (prevention) of Atrocities Act, the Appellant No. 2 – Avinash Patil has impugned the order dated 23.10.2018 passed by the learned District Judge – 5 and Additional Sessions Judge, Sangli, by which the Applicant No. 2's Anticipatory Bail was rejected.

6. Learned counsel for the Appellant No. 2 submits that there are no averments in the FIR qua the Appellant No. 2 – Avinash Patil.

7. Learned APP does not dispute the fact, that as far as the Appellant No. 2 – Avinash Patil is concerned, there are no averments against him in the FIR, inasmuch as, no overt act is attributed to him. Learned APP also does not dispute that there is anything in the FIR to show that the Appellant No. 2 – Avinash Patil was present at the spot.

8. Perused the FIR. The Appellant No. 2 – Avinash Patil is facing prosecution for the offences punishable under Sections 324, 341, 323, 504, 506 r/w 34 of the Indian Penal Code and Sections 3(2)(5) and 3(1)(5) of the Scheduled Castes And Scheduled Tribes (prevention) of Atrocities Act. Notice was issued to the Respondent No. 2 / Complainant on 26.10.2018. Office noting shows that the Respondent No. 2 has been duly served, however, none appears for the said Respondent. A perusal of the FIR shows that there are no averments as against the Appellant No. 2 – Avinash Patil. Neither any overt act has been attributed to him nor his presence is disclosed by the first informant / complainant at the spot of the incident. This Court vide Order dated 26.10.2018 had granted interim relief only to Appellant No. 2 – Avinash Patil.

9. Considering the aforesaid, the interim order dated 26.10.2018 is confirmed on the following terms & conditions :-

O R D E R

(i) In the event of the Appellant No. 2 – Avinash Patil's arrest in connection with **C. R. No. 248 of 2018**, registered with the **Sangli Rural Police Station, District – Sangli**, the Appellant

No. 2 – Avinash Patil be released on bail on his executing P. R. Bond in the sum of **Rs. 15,000/-** and on furnishing surety in the like amount;

(ii) The impugned order dated 23.10.2018 passed by the learned District Judge – 5 and Additional Sessions Judge, Sangli is quashed & set aside;

(iii) The Appellant No. 2 shall not tamper with the evidence or attempt to influence or contact the complainant, witnesses or any person concerned with the case;

(iv) The Appellant No. 2 shall keep the trial Court informed of his current address and mobile contact number and / or change of residence or mobile details, if any, from time to time.

10. The Appeal is, accordingly, allowed in the aforesaid terms.

All concerned to act on the authenticated copy of this order.

(REVATI MOHITE DERE, J.)