

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

911 CRIMINAL APPEAL NO.225 OF 2021

**BALASAHEB BABURAO SHEP
VERSUS
THE STATE OF MAHARASHTRA AND ANOTHER**

Mr. P.N. Nagargoje, Advocate for the appellant
Mrs. G. L. Deshpande, APP for the respondent/State
Mr. Sushant V. Dixit, Advocate for the respondent No.2

**CORAM : SURENDRA P. TAVADE, J.
DATE : 03-09-2021**

P. C.

. Being aggrieved and dissatisfied with the order passed by the Additional Sessions Judge, Ambajogai in Bail Application No. 121 of 2021 in connection with Crime No. 126 of 2021 registered with Ambajogai City Police Station, Dist. Beed for the offences punishable under Sections 347, 427, 506 of the Indian Penal Code and Sections 3(1)(f), 3(1)(g), 3(1)(r) and 3(1)(s) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act (for short the 'Atrocities Act').

2. It is contended by the appellant that respondent No.2 filed false and bogus FIR against him alleging that he humiliated him over his caste. It is contended that the informant encroached over the plot belonging to him. He has given complaint/application to various authorities. But, no action is taken against the informant.

It is also contended by the appellant that he has filed application to the Tahasildar for correction of revenue record. It is contended that false and bogus FIR came to be registered against him, due to land dispute. The trial court has not considered the dispute between himself and the informant in proper perspective and wrongly rejected the application for bail. Hence, he prayed for bail in the event of his arrest in connection with crime registered at the instance of informant with Ambajogai City Police Station.

3. Perused the FIR. It is alleged by the informant/respondent No.2 that on 16-07-1996 he purchased the plot No. 18, from out of Survey No. 99, situated at Shepwadi, Tq. Ambajogai, Dist. Beed from Baburao Namdeo Shep i.e. father of the appellant under sale deed. On the basis of registered sale deed his name was mutated in the record of right and since then he has been paying cess of plot No. since 1996. It is alleged that on 05-01-2021, the appellant entered into his plot and tried to demolish the boundary stones. Similarly, he put up flex containing that said plot belongs to his father. It is alleged that the informant wrote a letter to police about illegal act of appellant. It is alleged that on 10-01-2021, the appellant entered into plot of informant. Hence, informant went there. He asked the appellant as to why he demolished the boundary marks of plot and why the wrong flex was installed in the plot. Over this, the appellant abused the informant and his wife over their caste and threatened to kill them. The informant wrote a letter to the police and ultimately filed FIR on 23-

03-2021. On the basis of same, crime bearing No. 126 of 2021 was registered against the appellant.

4. On the basis of contents of FIR, the learned counsel for the appellant submits that there is delay in lodging the FIR which is not at all explained.

5. On the other hand learned APP submits that the informant has given complaint/application to Police Inspector, Ambajogai City Police Station on 18-07-2020, wherein it is alleged that during the lockdown the appellant put up flex in the plot and claimed ownership over the same. Thereafter, on 06-08-2020, he again gave application to police alleging that the appellant damaged the boundary wall by JCB machine. On 09-01-2021, the informant has also given application to the Police Inspector, Ambajogai City Police Station, wherein he alleged that the appellant was causing obstruction to his possession over the plot and he tried to manipulate the record of suit plot. It is also alleged that in the said application that the appellant abused him over his caste and humiliated him. Subsequently, the informant also gave application to Additional Superintendent of Police, Ambajogai on 06-02-2021. On the basis of above applications, the FIR of informant came to be registered against the appellant.

6. On going through the above, complaint/applications, it can be said that the informant was vigilant to lodge the complaint

against the appellant for various acts done by him (appellant) over the plot owned by him (informant). The informant has also produced on record the sale deed, mutation entry and tax receipts. The said documents shows that the informant is the owner and possessor of the plot No.18, from out of Survey No. 99, situated at Shepwadi, Tq. Ambajogai, Dist. Beed. The appellant is challenging the right, interest and title of the informant over the plot in question. It is specifically alleged against the appellant that he demolished the boundary wall of plot and put up his flex claiming right, interest and title over the plot of informant. Said act covers the provision of Sections 3(1)(f)(g)(r)(s) of the Atrocities Act. The informant categorically alleged that the appellant abused him and his wife over his caste and humiliated him in his plot. Said fact, prima-facie established that the appellant knew the caste of informant. He damaged the boundary wall and boundary stones and disturbed the boundary stones that belongs to the informant. Said acts falls within the definition of Section 3(1)(f)(g) of the Atrocities Act. Therefore, *prima-facie* there is material against the appellant involving him in the offence punishable under Sections 3(1)(f)(g) of the Atrocities Act.

7. The prosecution has produced on record the list of cases filed against the appellant. On going through the said list, it appears that the appellant is facing twelve criminal cases under the IPC and under Section 138 of the N.I. Act. On going through the said data, it appears that the appellant is having criminal

antecedents. Therefore, on this count also the appellant is not entitled for anticipatory bail. Therefore, in my considered opinion, the prosecution has *prima-facie* established that the offence under the Atrocities Act is made out against the appellant. There is bar of Section 18-A of the Atrocities Act. Therefore, the prayer of appellant cannot be considered. The trial court has rightly appreciated the facts of the case and rejected the application for pre-arrest bail of appellant. Said order dated 09-04-2021 passed in Bail Application No. 121 of 2021 by the learned Additional Sessions Judge, Ambajogai needs no interference. Hence, the criminal appeal stands dismissed.

[SURENDRA P. TAVADE, J.]

Vishalk/criapl225.21