

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

948 CRIMINAL APPEAL NO.266 OF 2021
BAPU RATAN KHANDERKAR @ PATIL (KHANDEKAR) AND ANR
VERSUS
THE STATE OF MAHARASHTRA AND ANOTHER

Mr.M.V. Salunke, Advocate for the appellants.
Ms.G.L. Deshpande, APP for the respondent/State.
Mr.S.S. Shaikh, Advocate for respondent No.2.

CORAM : N.R.BORKAR, J.
DATED : 12.10.2021

PC :-

01. This appeal takes an exception to order dated 18.05.2021 passed by the Special Judge, Dhule in Criminal Bail Application No.359 of 2021.

02. The appellants are accused in Crime No.59 of 2021, registered by Nijampur Police Station for the offences punishable under section 427, 504, 506 read with section 34 of the Indian Penal Code and section 3(1)(r)(s)(f)(g) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act.

03. The application was filed before the learned

Sessions Court for anticipatory bail. The learned Sessions Court rejected the bail by the order impugned.

04. I have heard learned Counsel for the appellants, learned APP for the respondent/State and the learned Counsel for respondent No.2/complainant.

05. The allegations against the appellants are that on 02.02.2021 they demolished the public toilet, which was located behind the house of the complainant and when he questioned the appellants for their act, they abused him on his caste. It is alleged that complainant was again abused on his caste on 15.04.2021. The contention of the learned Counsel for the appellants is that there is dispute between the present appellants and the complainant on account of encroachment done by the complainant on the land owned by the appellants. It is submitted that the FIR came to be lodged only after notice for measurement of land was issued. It is submitted that thus false case has been filed against

present appellants for the offences punishable under sections 3(1)(r)(s)(f)(g) of the SC & ST Act. It is submitted that thus the appellants be released on anticipatory bail.

06. On the other hand, learned APP has submitted that in view of section 18 of the SC & ST Act, the present appeal cannot be entertained. It is further submitted that there are independent witnesses, who have supported the version of the complainant. It is submitted that appeal be dismissed.

07. I have perused the statements of the witnesses. It appears from their statement that apart from demolishing the public toilet, when their said act was questioned by the complainant, they abused him on his caste. According to the appellants, there is dispute between the parties, however, no civil suit is filed till date. Considering the facts and circumstances of the case, no interference is called for in the impugned

order. The observations in the judgment of the Hon'ble Supreme Court cited by the learned Counsel for the appellants in the case of Hitesh Verma Vs. State of Uttarakhand & Anr., (2020) 10 SCC 710, that since the matter regarding possession of property is pending before the Civil Court, any dispute arising on account of possession of the said property would not disclose an offence under the SC & ST Act, unless the victim is abused, intimidated and harassed only for the reason that he belongs to Scheduled Caste or Scheduled Tribe, would be of no assistance to the appellants as the act of demolition of public toilet by the appellants appears to be with a view to harass the complainant and other members of his community.

08. In view of this, no case is made out for interfering with the impugned order. The appeal is dismissed.

[N.R.BORKAR, J.]