

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

930 CRIMINAL APPEAL NO. 352 OF 2021

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| 1. | Balasaheb Somnath Latke,
Age-57 years, Occu-Agril, | ...APPELLANTS |
| 2. | Mayur Balasaheb Latke,
Age-29 years, Occu-Service, | |
| 3. | Manisha Balasaheb Latke,
Age-48 years, Occu-Service, | |
| 4. | Sulabha Anil Latke,
Age-43 years, Occu-Household,
R/o. Flat NO. 9, S.No. 13/1, Plot No. 5C,
Jaychandra Apt, N.D.A. Road, New Vidnyan Nagar,
Bawdhan Kh, Pune | |

VERSUS

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| 1. | The State of Maharashtra,
Through Police Inspector,
Rahuri Police Station, Tq. Rahuri,
Dist. Ahmednagar | ...RESPONDENTS |
| 2. | Vimal Vasant Salve,
Age-45 years, Occu-Household,
R/o. Khadambe, Tq. Rahuri,
Dist. Ahmednagar | |

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Mr. H.U. Dhage, Advocate for the appellants
Mr. S. N. Morampalle, APP for the respondent/State
Mr. V. S. Bedre, Advocate for the respondent No.2

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CORAM : SURENDRA P. TAVADE, J.
RESERVED ON : 24-08-2021
PRONOUNCED ON : 03-09-2021

P. C.

1. The appellants have filed this criminal appeal seeking pre-arrest bail in connection with Crime No. 452 of 2021 registered with Rahuri Police Station, Tq. Rahuri, Dist. Ahmednagar for the offences punishable under Sections 354, 324, 143, 147, 148, 323, 504, 506 of the Indian Penal Code and Section 3(1)(r)(s), 3(1)(w) (i), 3(2)(v-a) and 3(1)(y) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 (hereinafter referred to as the 'Atrocities Act').

2. The facts giving rise to this appeal can be summarized as under:-

a. It is contended that informant Vimal Salve lodged the FIR on 07-06-2021 wherein it is alleged that on 05-06-2021 she alongwith her brother-in-law, sister-in-law, daughters, sons, cousins were sitting in the courtyard of her house. On that day at about 02.30 pm accused Arjun Latke, Anil Latke, Pratik Latke, Sandip Latke, son of Anil latke, wife of Arjun Latke and other 5-6 unknown persons came in front of her house. Accused Pratik Latke told her as to why she quarreled with his family over taking water for land. Accused Pratik and others pulled her and outraged her modesty.

Her brother-in-law and daughters intervened in the quarrel. But, accused assaulted the witness Sushma by iron rod. Similarly, Sushma was also assaulted by fist and kick blows by Pratik Latke and Sandip Latke. Said accused persons also threatened the informant and her family members with dire consequences. Informant and witnesses sustained injuries. Therefore, they were taken to Civil Hospital, Ahmednagar. Thereafter, the informant lodged the report. In the FIR, there are no allegations of hurling abuses over the caste to humiliate her and her family members. Subsequently, she filed private complaint against the accused named in the FIR and present appellants. On the basis of contents in the complaint, the Investigating Officer added the offences under the Atrocities Act against the appellants and co-accused. It is contended that the original accused Arjun Latke and Sandip Latke were arrested by the Investigating Officer and they have been released on bail. Similarly, other accused Arjun, Ranjana, Anil and Atharva filed an application for pre-arrest bail which was granted.

b. It is contended that the informant knows the appellants as the appellants are cousins of accused Pratik Latke and Sandip Latke. There are no allegations against the appellants in the FIR which was filed two days after the incident. It is contended that false and bogus complaint came to be registered against the appellants wherein false allegations of hurling abuses over the caste of informant were alleged. It is contended that the appellants never abused the informant or witnesses over their caste to humiliate

them. It is contended that the incident alleged to have been occurred on 05-06-2021. The appellants submitted that an application for pre-arrest bail had been filed, but it was rejected by the trial court. The trial court has not considered the allegations made in the FIR as well as in the complaint in proper perspective and wrongly rejected the application. It is contended that the accused Arjun Latke has filed complaint against the informant and others on 26-05-2021 wherein he had expressed his apprehension that the informant may falsely implicate them under the Atrocities Act. Said complaint treated as Non-cognizable. Thereafter, the present incident occurred. It is contended that accused Manisha Latke had also lodged the FIR on 07-06-2021 against the informant and his family members for the offences punishable under Sections 354, 323, 143, 147, 148, 504 and 506 of the IPC. It is contended that in order to counter blast the complaint filed by the Arjun and Manisha false complaint came to be filed against the appellants. It is contended that the appellants were not present on the spot. They are not involved in the crime. Hence, they prayed for pre-arrest bail.

c. Notice of this appeal was issued to the informant to appear through the counsel.

3. Heard learned counsel for the appellants, learned APP appearing for the respondent/State and learned counsel for the respondent No.2/informant.

4. Learned APP submits that in the original FIR names of appellants are not mentioned as their identity was not known to the informant. He submits that the statements of witnesses disclose the involvement of the appellants in the crime. He also submits that the story of informant is substantiated by the independent witnesses. Therefore, there is material against the appellants for the offences punishable under the Atrocities Act. It is contended that the co-accused are released on bail as the offences under the Atrocities Act were not mentioned in the original FIR. But, subsequently, the statement of informant was recorded wherein, the allegations of her humiliation over the caste were made out. Hence, the appellants are not entitled for the bail on parity. It is contended that the offences leveled against the appellants are serious in nature. The investigation is not completed. Therefore, the appeal be rejected.

5. Perused the FIR dated 07-06-2021 lodged by the Vimal Salve wherein the names of appellants are not mentioned. Similarly, there are no allegations of hurling abuses by the accused over her caste. It is simply alleged that the accused named in the FIR assaulted the informant and her children. It appears that private complaint was filed against the appellants wherein there are allegations of hurling of abuses over her caste. Said complaint came to be filed on 21-06-2021. On perusal of complaint, it appears that the informant knew the present appellants because she has given

their relation with the accused named in the FIR. Therefore, it cannot be said that the informant was not knowing the appellants prior to the incident. Therefore, it was expected from her to at least establish the presence of appellants at the time of incident. But, the FIR is totally silent on the act and overt-act of the appellants in the FIR. It is simply mentioned that the original accused were accompanied by 5-6 unknown persons and they assaulted the informant and her family members. It appears from the complaint that the informant knew the appellants since prior to the incident. Therefore, it was expected from the informant to mention the names of present appellants in the FIR alongwith their alleged acts and overt-acts.

6. In the complaint, the informant has made omnibus statement that all the accused including the present appellants abused her over her caste and thereafter, assaulted them. Said statements cannot prove the intent of appellants to humiliate the informant and witnesses. It appears from the allegations made in the complaint that in all 10 accused persons came in front of house of the informant and they abused her in corus. Such type of allegations will not prima-facie attract the provision of Section 3(1)(r)(s), 3(1)(w)(i), 3(2)(v-a) and 3(1)(y) of the Atrocities Act.

7. Admittedly, the co-accused Arjun, Ranjana, Anil and Atharva are ordered to be released on pre-arrest bail on 05-07-2021. It appears that the allegations made against the said

accused are serious than the present appellants. The allegations against the appellants are general and vague in nature. Therefore, in my opinion the appellants are entitled for bail as there is no bar of Section 18-A of the Atrocities Act. Therefore, in my opinion, the appeal deserves to be allowed. Hence, the following order:

ORDER

- i. In the event of arrest in connection with the Crime No. 452 of 2021 registered with Rahuri Police Station, Tq. Rahuri, Dist. Ahmednagar for the offences punishable under Sections 354, 324, 143, 147, 148, 323, 504, 506 of the Indian Penal Code and Section 3(1)(r)(s), 3(1)(w)(i), 3(2)(v-a) and 3(1)(y) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989, the appellants namely; 1. Balasaheb Somnath Latke, 2. Mayur Balasaheb Latke, 3. Manisha Balasaheb Latke and 4. Sulbha Anil Latke shall be released on bail on executing personal bond in the sum of Rs. 15,000/- [Rupees Fifteen Thousand] each with one or more sureties in the like amount.
- ii. The appellants are directed to attend the Rahuri Police Station from 03-09-2021 to 10-09-2021 between 10.00 am to 12.00 noon.

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iii. The appellants shall not tamper the prosecution evidence.

iv. The appellants shall join the investigation as and when called by the Investigating Officer.

v. Criminal appeal stands disposed of.

[SURENDRA P. TAVADE, J.]

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