

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

CRIMINAL APPEAL NO. 371 OF 2021

1. Manohar Sudhakar Late,
Age 35 years, Occu. Agri.,
2. Dhananjay Sudhakar Late,
Age 33 years, Occu. Agri.,
3. Sudhakar Pandurang Late,
Age 71 years, Occu. Agri.,
4. Mirabai Sudam @ Sudhakar Late,
Age 60 years, Occu. Agri.,
5. Subhash Bapurao Late,
Age 60 years, Occu. Agri.,
6. Laxman Bhagwan Late,
Age 38 years, Occu. Agri.,

All R/o. Kothul, Taluka Shrigonda,
District Ahmednagar.

.. Appellants
(Original Accused)

Versus

1. The State of Maharashtra
2. Savita Atmaram Dhas,
Age 37 years, Occu. Agri.,
R/o. Kothul, Taluka Shrigonda,
District Ahmednagar.

.. Respondents
(Respondent No.2-
Original informant)

...

Advocate for Appellants : Mr. Suresh P. Salgar h/f.
Mr. Niteen V. Gaware

APP for Respondent No.1 - State : Mr. S. P. Sonpawale
Advocate for Respondent No.2 : Mr. Rahul R. Karpe

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CORAM : N. R. BORKAR, J.

DATE : 25-10-2021

PER COURT :-

The present Appeal challenges the order dated 13-07-2021 passed by the learned Additional Sessions Judge, Shrigonda, District Ahmednagar, below Exhibit-1 in Criminal (Bail) Miscellaneous Applications No. 340 of 2021.

2. Appellants, who are accused in Crime No. I-0258 of 2021 registered at Belwandi Police Station, Taluka Shrigonda, District Ahmednagar, for the offences punishable under Sections 143, 147, 148, 427, 327, 323, 504, 506 and 354(B) of the Indian Penal Code (IPC) and under Sections 3(1)(r)(s), 3(1)(w), 3(1)(w)(i)(ii), 3(1)(c), 3(1)(e) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 [Here-in-after, referred to as 'Act of 1989'.] have filed applications under Section 438 of Code of Criminal Procedure, for anticipatory bail before the learned Sessions Court. The learned Additional Sessions Judge, Shrigonda rejected the applications vide order impugned.

3. I have heard learned counsel for the appellants and learned APP for respondent No.1 State as well as learned counsel for respondent No.2.

4. The learned counsel for the appellants submits that according to the complainant, there is an agreement to sell in their favour in respect of land bearing Gat No. 211 executed by the co-accused in the present matter, namely, Rohidas Dhas. It is submitted that according to the complainant herself said Rohidas Dhas has executed sale deed in relation to the said land in favour of wives of appellants No. 1 and 2. It is submitted that with a view to grab the land in question false complaint has been filed by making omnibus allegations against the appellants and other co-accused. It is submitted that the trial court was therefore not justifying in rejecting the application of the appellants for anticipatory bail.

5. On the other hand, learned APP for the respondent-State and learned counsel for respondent No.2 submitted that the appellants are involved in serious crime. It is submitted that there is bar under Section 18 of the Act of 1989 to entertain the application for anticipatory bail. It is further submitted that even after registration of the crime in question, the complainant and her family members are being threatened and therefore the report was lodged; on the basis of which, non-cognizable offences were registered. It is submitted that considering the nature of allegations and in view of the bar under Section 18 of the Act of

1989 to entertain the anticipatory bail application, the learned Sessions Court was justified in rejecting the applications for anticipatory bail.

6. I have perused the copy of first information report (FIR). It is alleged in the FIR that the co-accused namely Rohidas Gabaji Dhas, in spite of there being an agreement to sell in their favour in relation to land bearing Gat No. 211, he sold the said lands to wives of appellants No.1 and 2. According to complainant, on the day of incident i.e. on 23-06-2021, the present appellants alongwith other co-accused came to the land bearing Gat No. 211 and tried to damage the crop cultivated by them. It is alleged that when the complainant and her relatives tried to resist the said act of the appellants and co-accused, they outraged the modesty of the complainant and abused them on their caste.

7. Admittedly, accused No. 7 to 13, who are relatives of the complainant have been either released on anticipatory bail or regular bail. Omnibus allegations are made against all the accused. It appears that there is civil suit pending before the court of Civil Judge, Junior Division, Shrigonda. The Hon'ble Supreme Court in the case of *Hitesh Verma Versus State of Uttarakhand and another* reported in (2020) 10 Supreme Court Cases 710, has observed :

"16. There is a dispute about the possession of

the land which is the subject matter of civil dispute between the parties as per Respondent No. 2 herself. Due to dispute, the appellant and others were not permitting Respondent No.2 to cultivate the land for the last six months. Since the matter is regarding possession of property pending before the civil court, any dispute arising on account of possession of the said property would not disclose an offence under the Act unless the victim is abused, intimidated or harassed only for the reason that she belongs to Scheduled Caste or Scheduled Tribe."

8. In view of the above, I am inclined to allow the present appeal. The criminal Appeal is, thus, allowed. The impugned order dated 13-07-2021 passed by learned Additional Sessions Judge, Shrigonda, District Ahmednagar, in Criminal Miscellaneous Applications (Bail) No. 340 of 2021, is set-aside.

9. In the event of arrest of the appellants, they shall be released on bail on executing the PR bond of Rs. 25,000/- (Rupees Twenty Five Thousand Only) each with one surety in the like amount.

10. Accordingly, the criminal appeal is disposed of.

(N. R. BORKAR)
JUDGE