

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

913 CRIMINAL APPEAL NO.436 OF 2021

Balasaheb @ Sagar Jagannath Raut ...Appellant

Versus

The State of Maharashtra and another ...Respondents

...

Advocate for Appellant : Mr. Karpe Rahul R. & S.K. Patil

APP for Respondent : Mr. G O Wattamwar

Advocate for Respondent 2 : Mr. Syed G R

...

AND

CRIMINAL APPEAL NO.441 OF 2021

Satish s/o Ashok Jaybhay ...Appellant

Versus

The State of Maharashtra and another ...Respondents

...

Advocate for Appellant : Mr. Jadhavar S S & K P Rodge

APP for Respondent : Mr. G O Wattamwar

Advocate for Respondent 2 : Mr. Syed G R

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AND

CRIMINAL APPEAL NO.442 OF 2021

Balasaheb @ Balu s/o Raosaheb Misal ...Appellant

Versus

The State of Maharashtra and another ...Respondents

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...

Advocate for Appellant : Mr. Jadhavar S S & K P Rodge

APP for Respondent : Mr. G O Wattamwar

Advocate for Respondent 2 : Mr. Syed G R

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AND

CRIMINAL APPEAL NO.444 OF 2021

Govardhan s/o Pandurang Raut ...Appellant

Versus

The State of Maharashtra and another ...Respondents

...

Advocate for Appellant : Mr. Karpe Rahul R. &S.K. Patil

APP for Respondent : Mr. G O Wattamwar

Advocate for Respondent 2 : Mr. Syed G R

...

AND

CRIMINAL APPEAL NO.443 OF 2021

1. Suraj Ramkisan Jaybhay
2. Ramkisan @ Ramkrushna Sonaba Jaybhay
3. Madhukar Dattu Jaybhay
4. Shivaji Babasaheb Jaybhay
5. Baban @ Dadasaheb Bhagwan Khade ...Appellants

Versus

The State of Maharashtra and another ...Respondents

...

Advocate for Appellant : Mr. Jadhavar S S & K P Rodge

APP for Respondent : Mr. G O Wattamwar

Advocate for Respondent 2 : Mr. Syed G R

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AND

CRIMINAL APPEAL NO.439 OF 2021

1. Vitthal @ Mahadev Kondiba Jaybhay
 2. Shahadev Gorakh Ombase
 3. Sambhaji Kondiba Jaybhay
 4. Vithal Tukaram Jaybhay
 5. Bhagwat @ Barik Tukaram Jaybhay
 6. Baban Kantilal Jaybhay
 7. Ganesh Dagadu Funde
 8. Suresh Baban Funde
 9. Dnyaneshwar Mhasu Khedkar
 10. Ajinath Maruti @ Sudam Jaybhay
 11. Bhausahab Maruti Jaybhay
 12. Jagdish Abhimanyu Misal
 13. Shrikant Jagdish Misal
 14. Dattatraya @ Datta Sahebrao Funde
 15. Ramdas @ Rambhau Narsing Shinde
 16. Prakash Baban Jaybhay
 17. Vishnu Navnath Jaybhay
 18. Gokul Ajinath Misal
- ...Appellants

Versus

The State of Maharashtra and another ...Respondents

...

Advocate for Appellant : Mr. Jadhavar S S & K P Rodge

APP for Respondent : Mr. G O Wattamwar

Advocate for Respondent 2 : Mr. Syed G R

...

AND

CRIMINAL APPEAL NO.440 OF 2021

1. Rajendra @ Raju Tukaram Jaybhay
 2. Tukaram Namdev Jaybhay
- ...Appellants

Versus

The State of Maharashtra and another ...Respondents

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...

Advocate for Appellant : Mr. Jadhavar S S & K P Rodge

APP for Respondent : Mr. G O Wattamwar

Advocate for Respondent 2 : Mr. Syed G R

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CORAM : V.K. JADHAV & SHRIKANT D. KULKARNI, JJ.

Dated : September 22, 2021

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PER COURT :-

1. The appellants in all these criminal appeals are seeking anticipatory bail in the event of their arrest in connection with crime no.0366 of 2021 registered with Jamkhed police station, District Ahmednagar for the offences punishable under sections 307, 341, 329, 324, 143, 147, 148, 149, 500, 504, 506, 427 of Indian Penal Code and under section 3(2)(va), 3(2)(v) of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 (for short hereinafter referred to as 'the Act'). Their respective applications with similar prayer came to be rejected by the learned Additional Sessions Judge, Shrigonda, District Ahmednagar on 30.8.2021. In terms of the provisions of section 14 (A)(2) of the Act, all the appellants have preferred these criminal appeals.

2. Learned counsel for the appellants in all these criminal appeals submit that names of the appellants are not mentioned in the FIR and so far as nine accused persons named in the FIR, they are not before this Court seeking anticipatory bail except one accused named as 'Satish'. Learned counsel submit that name of the appellant Satish is also not completely mentioned in the FIR. Appellant Satish before this Court also thus apprehends his arrest at the hands of the police in connection with the present crime. Learned counsel submit that 11 days after the incident, on the basis of the supplementary statement of the informant, names of 26 persons came to be added in connection with the present crime. Learned counsel submit that brother of the informant is serving in the police department, and, consequently, not only names are added but also charge under the provisions of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act are also levelled against the accused persons, including the appellants. Learned counsel submit that on the basis of the complaint lodged by one Najuka Babasaheb

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Jaybhay, resident of village Vanjarwadi, Tq. Jamkhed, crime No.369 of 2021 for the offence punishable under sections 454, 380, 394 of IPC came to be registered at police station Jamkhed. The said informant Najuka has alleged in the complaint that theft has been committed in her house and certain golden ornaments and cash amount came to be looted from her house. Learned counsel submits that there are no allegations as against the present appellants.

3. The appellants are born and brought up in village Vanjarwadi. They are the agriculturists by occupation. There are no antecedents. The appellants are ready to abide the conditions, if imposed by this Court to co-operate the investigating agency for further investigation into the crime, if any. The appellants/accused may be released on anticipatory bail.

4. Mr. Syed, learned counsel appearing for respondent no.2/informant submits that it was a case of mob-lynching. The informant alongwith his associates is dealing in the business of purchasing country chicken

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from the villagers adjacent to the villages in Taluka Ashti. On the day of the incident, the informant alongwith his three associates had been to village Patoda for purchasing country Chicken. At that time, the incident had taken place, in which the informant and his associates were not only humiliated by referring their caste but they were subjected to ill-treatment and beating. Learned counsel submits that video recording of the said incident was made viral and on the basis of the said video recording, the informant has given his supplementary statement alleging participation of the appellants in the crime.

5. Learned APP submits that the investigation is still in progress. The appellants/accused persons are absconding since registration of the crime. In order to find out the truth in the allegations made in the complaint, so also in the supplementary statement, custodial interrogation of the appellants/accused is necessary. Furthermore, the amount allegedly looted in the said assault is yet to be recovered.

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6. We have carefully gone through the police papers, particularly, the contents of the complaint. It appears that names of only nine persons have been referred in the complaint and except one person namely 'Satish' the persons named in the FIR are not before us as the appellants seeking anticipatory bail. So far as the appellant Satish is concerned, his full name is 'Satish Ashok Jaybhaye.' Since full name of one Satish is not mentioned in the FIR, the appellant Satish Ashok Jaybhaye apprehends his arrest in connection with the present crime. Even, assuming that his name is mentioned in the FIR, however, except his name mentioned in the FIR, we do not find any specific role attributed to him.

7. So far as the other appellants/accused are concerned, they are not named in the FIR. In the supplementary statement recorded 11 days after the incident, names of 26 persons were added in connection with the present crime and also charge under the

provisions of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act also added against them.

8. We have carefully gone through the supplementary statement of the informant. We find that names of the appellants are merely mentioned in the supplementary statement with the allegations that in addition to those nine persons named in the FIR, those 26 persons, including the present appellants have played a prominent role in the assault. However, no specific allegations, by referring the individual acts of those 26 persons, have been made. Learned counsel for respondent no.2/informant has shown us certain photographs which are part and parcel of the affidavit-in reply. We have carefully gone through those photographs. It appears that most of the villagers were there in the mob either standing or watching the scene by doing nothing. On each and every photograph respondent no.2 has merely mentioned name of the person appearing on the said photograph. Apart from this, it is also the contention of the

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respondent/informant that it is a case of mob lynching. It further appears that due to some misunderstanding, some villagers gathered on the spot by suspecting the involvement of the informant and his associates in the commission of theft.

9. Though, it has been alleged that the appellants/accused have also committed the offence under the provisions of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, however, after carefully going through the supplementary statement and the police papers, we do not find anything against them *prima facie* attracting the provisions of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act. It appears that in the said incident, which was the outcome of the suspected dacoity and mob lynching, informant and his associates came to be humiliated in some untoward manner. However, the appellants herein whose antecedents are clear have been named in connection with the present crime belatedly. The appellants are the agriculturists by
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occupation. In the given set of allegations, their custodial interrogation is not required. Thus, by imposing certain conditions, we are inclined to release all the appellants on anticipatory bail. Hence, following order.

ORDER

- I. All criminal appeals i.e. Criminal appeal Nos.436 of 2021, 441 of 2021, 442 of 2021, 444 of 2021, 443 of 2021, 439 of 2021 and 440 of 2021, are hereby allowed.
- II. In the event of arrest of the appellant Balasaheb @ Sagar Jagannath Raut, in criminal appeal No. 436 of 2021, the appellant Satish Ashok Jaybhay in criminal appeal No.441 of 2021, the appellant Balasaheb @ Balu Raosaheb Misal in criminal appeal No.442 of 2021, the appellant Govardhan Pandurang Raut in criminal appeal No.444 of 2021, the appellant Nos 1.Suraj Ramkisan Jaybhay, 2. Ramkisan @ Ramkrushna Sonaba Jaybhay, 3. Madhukar Dattu Jaybhay, 4.Shivaji Babasaheb

Jaybhay and 5.Baban @ Dadasaheb Bhagwan Khade in criminal appeal No.443 of 2021, the appellant Nos.-1.Vitthal @ Mahadev Kondiba Jaybhay, 2. Shahadev Gorakh Ombase, 3. Sambhaji Kondiba Jaybhay, 4. Vithal Tukaram Jaybhay, 5. Bhagwat @ Barik Tukaram Jaybhay, 6. Baban Kantilal Jaybhay, 7.Ganesh Dagadu Funde, 8. Suresh Baban Funde, 9.Dnyaneshwar Mhasu Khedkar, 10. Ajinath Maruti @ Sudam Jaybhay, 11. Bhausahab Maruti Jaybhay, 12.Jagdish Abhimanyu Misal, 13. Shrikant Jagdish Misal, 14. Dattatraya @ Datta Sahebrao Funde, 15. Ramdas @ Rambhau Narsing Shinde, 16. Prakash Baban Jaybhay, 17. Vishnu Navnath Jaybhay and 18. Gokul Ajinath Misal in criminal appeal No.439 of 2021 and appellant Nos.1. Rajendra @ Raju Tukaram Jaybhay and 2.Tukaram Namdev Jaybhay in criminal appeal No.440 of 2021, in connection with crime No.0366 of 2021 registered with Jamkhed police station, District Ahmednagar for the offences punishable under sections 307, 341, 329, 324, 143, 147, 148,

149, 500, 504, 506, 427 of Indian Penal Code and under section 3(2)(va), 3(2)(v) of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989, they be released on bail on furnishing P.B. of Rs.5,000/-each, with one surety each of the like amount on the following conditions.

- a) The appellants/accused persons in all these criminal appeals shall not tamper with the prosecution evidence, in any manner.
- b) The appellants/accused in all these criminal appeals shall attend the concerned police station on every Sunday between 8 am to 11 am till filing of the charge-sheet.
- c) In addition to the above, appellants/accused in all these criminal appeals shall also make themselves available as and when required by the investigating officer for carrying out further investigation into the crime, if any.

III. All Criminal appeals are accordingly disposed off.

(SHRIKANT D. KULKARNI, J.) (V.K. JADHAV, J.)

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