

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPEAL NO.459 OF 2021

ANANTHA BABURAO SARKALE AND ANOTHER
VERSUS
THE STATE OF MAHARASHTRA AND ANOTHER

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Advocate for Appellants : Mr. Shirish M. Kamble
APP for Respondent No.1 – State : Mrs. R. P. Gaur
Advocate for Respondent No.2 : Mr. Nilkanth R. Pawade

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CORAM : N. R. BORKAR, J.
DATE : 27-10-2021

PER COURT :-

This Appeal challenges the order dated 30-08-2021 passed by the learned Additional Sessions Judge, Gangakhed, District Parbhani, in Criminal Miscellaneous Application (Bail) No. 186 of 2021.

2. The appellants, who are accused in Crime No. 0189 of 2021 registered at Sonpeth Police Station, for the offences punishable under Sections 324, 323, 504, 506 read with Section 34 of the Indian Penal Code and Section 3(1)(r), 3(1)(s) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989, have filed application under Section 438 of the Code of Criminal Procedure, 1973 for anticipatory bail. By the order impugned, learned Additional Sessions Judge rejected the said application.

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

4. Learned counsel for the appellants submits that there is a delay in lodging the First Information Report (FIR). It is further submitted that the appellant No.1 is working as a Librarian and petitioner No.2 is working as a Lecturer in Varpurdkar College, Sonpeth, District Parbhani. It is submitted that respondent No.2, who is employee working on daily wages in the said College, has made false allegations with an ulterior motive. It is accordingly submitted that the appellants be released on the anticipatory bail.

5. On the other hand, learned APP for respondent No.1 State submits that there are specific allegations against the appellants that they abused the respondent No.2 on his caste. It is further submitted that considering the bar under Section 18 of the Act of 1989, present appeal may not be entertained.

6. I have perused the copy of FIR. Admittedly, the incident took place on 13-08-2021 and the report came to be lodged on 15-08-2021. There is no explanation in the FIR about the said delay. There appears to be some financial transaction between respondent No.2 and the appellant No.2. There is no independent witness to the incident.

7. Considering the aforesaid facts and circumstances, I am inclined to allow the present appeal. In the result, the following order :-

ORDER

1. Criminal Appeal is allowed.
2. The impugned order dated 30-08-2021 passed by the learned Additional Sessions Judge, Gangakhed, District Parbhani, in Criminal Miscellaneous Application (Bail) No.

186 of 2021, is set-aside.

3. In the event of arrest of the appellants in Crime No. 0189 of 2021 registered at Sonpeth Police Station, for the offences punishable under Sections 324, 323, 504, 506 read with Section 34 of the Indian Penal Code and Section 3(1)(r), 3(1)(s) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989, 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.

(N. R. BORKAR)
JUDGE

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