

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

CRIMINAL APPEAL NO. 667 OF 2020

Ashok S/o Revji Nehe,
Age : 55 Years, Occ. Agriculture,
R/o. Mamdapur, Taluka Rahata,
District Ahmednagar.

.. APPELLANT

VERSUS

1. The State of Maharashtra
Through Police Station,
Loni, District Ahmednagar.

2. Sow. Ghanshyama Vaibhav Kadam,
Age : 41 Years, Occ. Agriculture
R/o. Mamdapur Taluka Rahata,
District Ahmednagar.

.. RESPONDENT

Advocate for the Appellant : Mr. S.J. Salunke
A.P.P for Respondent-State : Ms. R. P. Gour
Advocate for Respondent No.2 : Mr. S. P. Salgar h/f
Mr. N. V. Gaware

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CORAM : N.R. BORKAR, J.
DATE : 22.10.2021

PER COURT :-

This appeal takes an exception to the order dated 17.03.2020 passed by the learned Additional Sessions Judge, Kopergaon in Criminal Bail Application No. 95 of 2020.

2. The appellant, who is an accused in crime No. 113 of 2020 registered by Loni Police Station for the offences

punishable under Sections 435, 427, 323. 504, 506 of the Indian Penal Code and Sections 3(1)(r), 3(1)(s), 3(1)(t) of Scheduled Caste and Scheduled Tribes (Prevention of Atrocities) Act, 1989, has moved an application for anticipatory bail before the learned Sessions Court. The learned Additional Sessions Judge, Kopargaoon rejected the application by the order impugned.

3. I have heard the learned counsel for the appellant and learned Additional Public Prosecutor for respondent-state and the learned counsel for respondent No.2.

4. The learned counsel for the appellant submits that in relation to the incident in question, which took place on 23.02.2020, the report was lodged by the husband of the respondent No.2 who is the complainant, in the present case, on the very same day and on the basis of said report non cognizable offence was registered. It is submitted that six days thereafter the report came to be lodged in relation to very same incident alleging that the present appellant abused her and her family members on caste and on the basis of said report, aforesaid crime came to be registered. The learned counsel for the appellant submits that afterthought allegations are made against the present appellant with a view to implicate him in serious offence. It is submitted that the respondent No.2 and

her family members were constantly threatening the appellant and his family members to implicate them in a false case for the offences punishable under the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, and therefore the report was lodged on 29.02.2020 and on the basis of which, non cognizable offence was registered against the family members of the respondent No.2. It is submitted that considering these facts and circumstances the appellant needs to be released on anticipatory bail.

5. In support of the submission the learned counsel for respondent No.2 has relied upon the Judgment in ***Criminal Appeal No. 766 of 2018*** in the case of ***Kishor S/o Chhagan Ghate and others Versus The State of Maharashtra and another***, dated 9th December 2018.

6. On the other hand, learned Additional Public Prosecutor for the respondent/state submits that there is bar under Section 18 of the Scheduled Caste and Scheduled Tribes (Prevention of Atrocities) Act to entertain the application for anticipatory bail. It is further submitted that the appellant is involved in serious offences and therefore on that ground also they are not entitled to anticipatory bail. It is thus submitted that the appeal be dismissed.

7. According to the complaint, her husband owns land bearing Gat No. 239 admeasuring 70 R at Mouje Mamdapur and there they are doing Grape farming. According to the complainant, the sister of her husband owns 64 R land adjacent to their land and the said land is lying barren since last six to seven years. It is alleged that on 23.02.2020 the appellant-accused, who is no way concerned with the land owned by them came there and he set on the fire the dry grass which was there in the land owned by the sister of complainant's husband because of which Grapes worth Rupees One Lakh were damaged. It is alleged when they questioned the appellant about his act, he abused them on their caste. According to the complainant, her husband's complaint was not taken according to his say. But the fact remains that the report was lodged by the husband of the complainant on the very same day of incident. Thereafter, on 25.02.2020 the appellant had lodged the report in relation to the very same incident and in the said report he has alleged that the husband of the complainant and their sons and two more persons assaulted him by iron rod and they even pushed him in the fire and attempted to kill him. On the basis of the said report, the concerned police station had registered the crime against the husband of the complainant and her sons for the offence punishable under Sections 307,

327, 326, 323, 143, 144, 147, 148, 149 of the Indian Penal Code. I have perused the report lodged by the appellant. According to him, in all six persons assaulted him that to by iron rod. Even he was pushed in the fire. However, discharge summery produced on record does not show any grievous injury or burn injury to him. It appears that he was indoor patient for one day only. The appellant, who implicated the entire family of the complainant in serious offence of attempt to murder, by making exaggerated allegations, in my view is not entitled to discretionary relief of anticipatory bail. In the result the appeal is dismissed.

8. The learned counsel for the appellant submits that interim protection granted by this Court by the order dated 22.12.2020 be continued for the period of one month, so that the appellant can approach to the Hon'ble Supreme Court against this order. The interim protection shall remain in operation for further period of one month from today i.e. i.e. till 22.11.2021.

(N. R. BORKAR)
JUDGE

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