

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPEAL NO.668 OF 2020

1. Maroti s/o Tulshiram Devre,
Age : 60 years, Occu. Agri.
2. Arjun s/o Maroti Devre,
Age : 32 years, Occu. Agri.

Both the appellants are
R/o Thorava, Tq. Basmat,
District Hingoli

APPELLANTS

VERSUS

1. The State of Maharashtra,
through Basmat Rural Police Station,
Tq. Basmat, District Hingoli
2. Anand Laxman Khare,
Age : 38 years, Occu. Agri. & Labour,
at present r/o Samrat Colony,
Basmat, Tq. Basmat, Dist. Hingoli

RESPONDENTS

Mr. D.M. Shinde, Advocate for the appellants
Mr. S.W. Mundhe, A.P.P. for the respondent/State
Mr. S.M. Kamble, Advocate for respondent No.2

CORAM : MANGESH S. PATIL, J.

DATE : 12.01.2021

PER COURT :

Learned Advocate Mr. A.S. Tilve was appointed by this Court
to represent respondent No.2 since he was not appearing. However, it

appears that subsequently respondent No.2 has engaged learned Advocate Mr. S.M. Kamble, who has filed his vakalatnama. Both the learned Advocates are present before me. Learned Advocate Mr. A.S. Tilve is discharged.

2. Heard.

3. This is an appeal under Section 14-A of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 (“the Act”, for short), being aggrieved and dissatisfied by the rejection of appellants’ application seeking bail under Section 439 of the Code of Criminal Procedure in connection with FIR No.171 of 2020 registered with Basmath Rural Police Station, District Hingoli for the offences punishable under Sections 427, 447, 435, 504, 506 of the Indian Penal Code and under Sections 3(1)(g) and 3(2) (va) of the Act.

4. Briefly stated, the allegations as can be gathered from the FIR and the police papers are that respondent No.2, who claims to be in possession of land Gat No.228 of village Thorava, alleges that on 08.11.2020, at about 3.00 p.m., he saw both the appellants setting the fodder in his field on fire. When he questioned them, they abused him on caste-lines and also threatened him of dire consequences. He immediately rushed to the Police Station and lodged FIR on the basis of which crime has been registered.

5. The learned Advocate for the appellants submits that they are being falsely implicated. There is a dispute regarding the land over which

respondent No.2 is claiming possession. His name does not appear in the revenue record. He has filed complaint on concocted version. The appellants were arrested on 07.12.2020. The Investigating Officer had sufficient opportunity to complete the investigation. The offences under the Indian Penal Code are bailable. There are no criminal antecedents. The applicants are ready to abide by any condition and may be granted bail.

6. The learned A.P.P and the learned Advocate for respondent No.2 submit that the offence is serious. The matter is still under investigation. There is prima facie material to reveal complicity of the appellants in commission of the crime. Respondent No.2 is the eye witness who has seen them setting fodder on fire. There is every possibility of the appellants indulging in a similar activity.

7. I have carefully gone through the papers. As can be seen from the papers of the investigation, prima facie, the material part of the investigation is already over. The allegations are about only one utterance on the caste-line as far as the offence under the Atrocities Act is concerned. Already the spot panchanama has been conducted. All the material part of the investigation has been completed. The statements of witnesses have been recorded. The revenue record has been collected.

8. Considering nature of the allegations, their quality coupled with the other attending circumstances, discussed hereinabove, the propriety

demands that the appellants are released on bail.

9. The observations made and the conclusions drawn by the learned Special Judge in the impugned order would only reflect the stage at which the investigation was when the order was being passed. By the passage of time, even the purpose is over. There are no sufficient grounds to allow further detention of the appellants.

10. The Criminal Appeal is allowed. The impugned order is quashed and set aside. The appellants be released on bail on their executing personal recognizance for an amount of Rs.20,000/- (Rupees Twenty Thousand) each and furnishing a solvent surety each in the like amount, subject to the condition that they shall not tamper the evidence or influence the witnesses. Bail before the Trial Court.

[MANGESH S. PATIL]
JUDGE

