

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

CRIMINAL APPEAL NO.520 OF 2021

Gaurav Suresh Chaudhari

...APPELLANT

VERSUS

- 1) The State of Maharashtra,
- 2) Lalita Purushottam Khamkar

...RESPONDENTS

...
Mr. N.L. Choudhari Advocate for Appellant.
Mrs. R.P. Gour, A.P.P. for Respondent No.1 – State.
Mr. M.G. Khochar Advocate (appointed) for Respondent No.2.
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CORAM: N.R. BORKAR, J.

DATE : 14th DECEMBER, 2021

ORDER :

1. This Appeal takes an exception to the order dated 1st October 2021 passed by the learned Additional Sessions Judge, Jalgaon in Criminal Bail Application No. 765 of 2021.

2. The appellant, who is accused in Crime No. 159 of 2021 registered at Erandol Police Station, District-Jalgaon for the offences punishable under Sections 354, 294, 447, 323, 504,

506 of the Indian Penal Code and under Sections 3 (1) (w) (i) (ii) (r) (s) (f) (g) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989, had filed an application for anticipatory bail. The said bail application came to be rejected by the order impugned.

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

4. Learned counsel for appellant submits that a false complaint came to be lodged against the present appellant and his father due to dispute in relation to common Bandh between agricultural fields of the accused and the complainant. It is submitted that there is delay in lodging the complaint. It is submitted that all sorts of exaggerated allegations are made against the appellant and his father just to implicate them in a serious offences. It is submitted that appellant is a student of Bachelor of Pharmacy and on the date of alleged incident there was practical examination of the present appellant. It is submitted that considering the facts and circumstances, the appellant needs to be released on anticipatory bail. In support of

submissions, learned counsel for the appellant relied upon the Judgment in the Case of ***Hitesh Verma vs. The State of Uttarakhand and another***, reported in ***(2020) 10 S.C.C. 710***.

5. On the other hand, learned APP for the respondent – State submits that prior to the present incident which took place on 31st May 2021, on 8th July 2019 the accused had caused damage to the crop in the field of the complainant and thus report was lodged to the police in that respect. It is submitted that had the intention of the complainant to involve the accused in a more serious offence, at that time also she would have made the similar allegations. It is submitted that the present appellant along with his father not only assaulted the complainant but even outraged her modesty. It is submitted that considering the bar contained in Section 18 of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, the trial Court was justified in rejecting the application for anticipatory bail. It is submitted that no interference is called for in the order impugned and the Appeal may be dismissed.

6. Learned counsel for respondent No. 2 adopted the submissions of the learned APP.

7. I have perused the First Information Report. It appears from the First Information Report that there is a dispute between the accused and family of the complainant on account of common Bandh between their agricultural fields and on account of alleged encroachment. The cause for the occurrence of the present incident is said dispute. The Hon'ble Supreme Court in the case of **Hitesh Verma**, cited supra, has observed thus:

"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, 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. Apart from it, the alleged incident took place on 31st May 2021, however initial report in relation to it came to be lodged after two days. Nothing is to be recovered from the present appellant. Learned counsel for the appellant submits that father

of the present appellant, who is co-accused in the present crime, was arrested and came to be released on regular bail. Considering the facts and circumstances, I am inclined to release the appellant on anticipatory bail. Hence, following order is passed:

ORDER

(I) Appeal is allowed.

(II) The impugned order dated 1st October 2021 passed by the Additional Sessions Judge, Jalgaon in Criminal Bail Application No.765 of 2021, is quashed and set aside.

(III) In the event of arrest of the appellant in Crime No. 159 of 2021 registered at Erandol Police Station, District-Jalgaon for the offences punishable under Sections 354, 294, 447, 323, 504, 506 of the Indian Penal Code and under Sections 3 (1) (w) (i) (ii) (r) (s) (f) (g) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989, he shall be released on bail on his furnishing P.R. Bond in the sum of Rs.25,000/- (Rupees Twenty Five Thousand) with one surety in the like amount.

(IV) The appellant shall not stay at village Ravanje Budruk, Taluka-Erandol, District-Jalgaon, till filing of

the charge-sheet, and shall attend the Police Station, Erandol, District-Jalgaon once in a week i.e. on every Monday between 11.00 a.m. to 2.00 p.m. till filing of the charge-sheet.

(V) Learned appointed counsel Mr. M.G. Khochar for respondent No.2 shall be paid fees in accordance with rules.

[N.R. BORKAR, J.]