

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

CRIMINAL APPEAL NO. 624 OF 2021

1. Gopal S/o Shivaji Dange,
Age : 24 Years, Occ. Education
2. Shivaji S/o Narayan Dange,
Age : 50 Years, Occ. Agriculture,
3. Maroti S/o Devidas Dange,
Age : 26 Years, Occ. Agriculture
4. Pandurang S/o Baban Dange,
Age : 34 Years, Occ. Labour
5. Manjulabai W/o Narayan Dange,
Age : 75Years, Occ. Household

All resident of Vaijapur, Taluka
and District Hingoli.

..APPELLANTS

V E R S U S

1. The State of Maharashtra,
Through Police Inspector,
Police Station, Narsi (Namdeo)
Tq and Dist. Hingoli
2. Aashamati W/o Siddharath Pandit,
Age : 45 Years, Occ. Household,
R/o. Vaijapur Tq. & Dist. Hingoli

..RESPONDENTS

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Advocate for the Appellants : Mr. S.G. Kawade
A.P.P for Respondent No.1 State : Mr. R. B. Bagul
Advocate for Respondent No.2 : Mr. M.R. Wagh
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CORAM : N.R. BORKAR, J.
DATE : 22.12.2021

ORDER :-

This appeal takes an exception to the order dated 23.11.2021 passed by the learned Additional Sessions Judge, Hingoli in Bail application No. 416 of 2021.

2. The appellants, who are the accused in Crime No. 113 of 2021 registered at Narsi (Namdeo) Police Station, District Hingoli for the offences punishable under Sections 324, 323, 504, 147, 148, 149 of the Indian Penal Code and Section 3(1)(r), 3(1)(s) and 3(2) (va) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989, had filed an application for anticipatory bail. The said application came to be rejected by the order impugned.

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

4. The learned counsel for the appellants submits that first incident took place on 04.11.2021 and second incident took place on 05.11.2021. It is submitted that according to the respondent No.2/complainant, who belongs to Scheduled Caste, she was abused on the caste, in the incident, which took place

on 04.11.2021. It is submitted that, alleged abuses on caste, are not attributed to the present appellants, nor the appellant Nos.1,2, 4 and 5 were present at the time of incident. It is submitted that as regards incident dated 05.11.2021 in fact in the said incident, the respondent No.2 and her family members, assaulted the appellant No.1 and he was in Hospital from 05.11.2021 to 24.11.2021, as indoor patient. It is submitted that in relation to the said assault on appellant No.1, he had lodged the report against the complainant and her family members, on the basis of which police have registered crime No. 114 of 2021 for the offence punishable under Sections 325, 452, 504, 506, 147, 148, 149 of the Indian Penal Code. It is submitted that the trial Court lost sight of all these facts and committed error in rejecting the application of the applicants for anticipatory bail. He submits that order impugned thus needs to be set-aside and appellants need to be released on anticipatory bail.

5. On the other hand, learned A.P.P for the respondent State submits that there are specific allegations against the present appellants, in relation to the offences punishable under the Atrocities Act. It is submitted that the present appellants assaulted the complainant, her husband, son and daughter by sticks and iron rods. It is further submitted that on the basis of

supplementary statement of the complainant, Section 395 of the Indian Penal Code came to be invoked against the appellants. It is submitted that considering the nature of offence and as there is bar to entertain anticipatory bail application, under Section 18 of the Atrocities Act, the learned Session Court was justified in rejecting the anticipatory bail application of the appellants.

6. Learned counsel for the respondent No. 2 adopted the submission of the learned A.P.P. for respondent-State.

7. I have perused the First Information Report. In the first incident, dated 04.11.2021, the co-accused in the present crime namely Santosh Devidas Dange alleged to have abused to respondent No.2 complainant on her caste. At the time of alleged incident dated 04.11.2021, the appellant Nos. 1,2, 4 and 5 were not present. It appears that though the appellant No.3 was present at time of the said incident, however, no role is attributed to him in the said incident. As regards the second incident dated 05.11.2021, according to the complainant, the present appellants assaulted her. However, there appears to be cross F.I.R. in relation to the said incident. As regards, Section 395 initially the complainant has stated that during the quarrel

she lost the ornaments which were there on her person. However, in the supplementary statement dated 25.11.2021, i.e. practically after 20 days the complainant has alleged that the appellant No.3 snatched those ornaments which were there on her person. Considering the over all facts and circumstances of the case, I am inclined to release the appellants on anticipatory bail. In the result following order is passed :

ORDER

- (i) The appeal is allowed.
- (ii) The order impugned is set-aside.
- (iii) In the event of arrest of the appellants in Crime No. 113 of 2021 registered at Narsi (Namdeo) Police Station District Hingoli for the offences punishable under Sections 324, 323,504, 147, 148, 149 & 395 of the Indian Penal Code and Section 3(1)(r), 3(1)(s) and 3(2) (va) of the Scheduled Caste and Scheduled Tribes (Prevention of Atrocities) Act 1989, they shall be released on executing P.R bond in the sum of Rs. 25,000/- (Rupees Twenty Five Thousand) each with one surety in the like amount.
- (iv) All the appellants, except the appellant No.5, who is 75 years old shall attend the concerned Police Station every week i.e. on every Monday in between 11.00 a.m to 2.00 p.m, till

filing of the charge sheet and shall co-operate in the investigation.

(N. R. BORKAR)
JUDGE

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