

***IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION***

CRIMINAL APPEAL NO.973 OF 2019

1. Baburao Ashok Jadhav
2. Amsidha Bansidha Kouli (Pujari)
3. Prakash Aamsidha Jalgiri ...Appellants
Versus
State of Maharashtra and Anr. ...Respondents

Mr. Balwant V. Salunkhe, for the Appellants.

Mr. A. R. Patil, A.P.P for the Respondent No.1– State.

Mr. Ketan A. Dhavle, Appointed Advocate for the Respondent No.2.

CORAM : REVATI MOHITE DERE, J.

DATE : 24th AUGUST, 2021

P.C. :

1. Heard learned Counsel for the parties.
2. By this appeal, the appellants (original accused Nos.1, 2 and 4) seek pre-arrest bail in connection with C.R. No.141 of 2017, registered with the Umadi Police Station, Taluka – Jath, District - Sangli, for the alleged offences punishable under Sections 307, 342, 436, 448, 427, 429 of the Indian Penal Code, under Sections 3(i) (u), 3(2),(3)(4), 3(2)(v), 3(2) (va) of the Scheduled Castes and the Scheduled Tribes (Prevention of

Atrocities) Act and under Section 92(a)(b) of the Rights of Persons with Disabilities Act, 2016.

3. Learned Counsel for the appellants submits that the incident is of the year 2017 and that the appellants were granted interim protection by this Court (Coram: Dama Seshadri Naidu, J.) vide order dated 22nd July 2019. He submits that the appellants have co-operated with the investigation and that charge-sheet has been filed in the said case on 4th October 2019 and the accused have been shown formally arrested by the police and as such custodial interrogation of the appellants is not warranted. He submits that there is dispute between the appellants and the complainant and that several complaints have been filed by either side against each other. He submits that 2 cases have been lodged by the complainant as against the appellants prior to the aforesaid incident. He further submits that there are no eye-witnesses to the alleged incident of setting the complainant's house on fire and that the only allegation as against the appellants is that the complainant heard their voices at the time of the alleged incident.

4. Learned APP does not dispute that after investigation charge-sheet has been filed in the said case on 4th October 2019 and that the

appellants have been shown as formally arrested on 30th July 2019.

5. Learned Counsel for the respondent No.2 opposes the appeal. He, however, requests that the trial of the appellants be expedited since the incident is of the year 2017.

6. Perused the papers. The incident in question is stated to have taken place on 13th November 2017 between 2:30 to 3:00 a.m. It is alleged by the complainant that the appellants set his house on fire and that the neighbours extinguished the fire by pouring water. In the said incident, four she-goats were found dead and several household articles were destroyed. The loss was stated to have been around 2 to 3 lakhs. Admittedly, there are no eye-witnesses to the said incident. The allegation made by the complainant is that he heard the voices of the appellants at the time of the alleged incident.

7. Be that as it may, the fact remains that charge-sheet has been filed in the said case and that the aforesaid appellants have been shown to be formally arrested on 30th July 2019. The other co-accused i.e. original accused No.3 was arrested and subsequently released on bail.

8. Having regard to the aforesaid, custodial interrogation of the appellants is not warranted. The appeal is accordingly allowed and the interim protection granted by this Court vide order dated 22nd July 2019, is confirmed on the following terms and conditions :-

ORDER

(i) In the event of the arrest, the appellants be enlarged on bail on executing P.R. Bond in the sum of Rs.15,000/- each with one or more sureties in the like amount ;

ii) The appellants shall report to the Investigating Officer of the concerned Police Station, on the first Saturday of every month, between 10:00 a.m. to 11:00 a.m., till the conclusion of the trial;

(iii) The appellants shall not contact the complainant, witnesses or any person concerned with the case;

(iv) The appellants shall co-operate in the conduct of the trial.

9. The appeal is allowed in the aforesaid terms and is accordingly disposed of. Since the incident is of the year 2017, the trial of the appellants is expedited.

10. It is made clear that the observations made herein are *prima facie*, for the purpose of deciding this appeal.

11. All concerned to act on the authenticated copy of this order.

REVATI MOHITE DERE, J.