

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

CRIMINAL APPEAL NO.74 OF 2020

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| 1. Dattatraya Baburao Sangle | |
| 2. Keshav Baburao Sangle | |
| 3. Ramesh Baburao Sangle | |
| 4. Hemant Alias Babu Dattatreya Sangle | ...Appellants |
| V/s. | |
| 1. The State of Maharashtra | |
| 2. Sanjay Vaman Lilke | ...Respondents |

Mr. Sanjeev Kadam i/b P. P. Raul for Appellants.
Smt. Rutuja Ambekar, APP for Respondent No.1 (State).
None for Respondent No.2.

CORAM : A. S. GADKARI, J.
DATE : 31st MARCH, 2021.

P.C.:

1. This is an Appeal under Section 14-A of The Scheduled Caste and Scheduled Tribe (Prevention of Atrocities) Act, 1989 (for short “the SC & SC Act”) for pre-arrest bail under Section 438 of Code of Criminal Procedure (for short “Cr.PC.”) in C.R. No.344/2019 @ 227/2019 registered with the Dindori Police Station, Nashik (Rural), for the offences punishable under Sections 143, 147, 148, 149, 324, 504, 506, 427 and 447 of the Indian Penal Code and under Sections 3(1)(r)(s) and 3(2)(v-a) of the SC & SC Act.

2. Heard Mr. Kadam, learned counsel for the Appellants and Smt. Ambekar, learned APP for Respondent No.1. Perused record.

3. The present crime is lodged by Mr. Sanjay V. Lilke, Respondent No.2 on 23rd December 2019 at about 21.31 (09.31 pm). It is the prosecution case that, there was a dispute between the Appellants and Respondent No.2 over the landed property (agricultural field). That, on 23rd December 2019, the Respondent No.2 alongwith his brother Nitin Lilke had been to their agricultural field. A quarrel took place between the Appellants and the Respondent No.2 and his brother over the boundary of the agricultural field. It is alleged that, at that time, the Appellants hurled abuses on the tribe of the Respondent No.2 and his brother and threatened them with dire consequences. When Respondent No.2 tried to pacify the quarrel and explained the situation to the Appellants, the Appellant No.3 assaulted Respondent No.2 with a stone on his nose. Respondent No.2 suffered bleeding injury. The other Appellants assaulted Nitin Lilke with wooden logs and also abused him in filthy language. It is further alleged that, the Appellants caused damage to the car of Respondent No.2 by breaking its glasses. In this brief premise, the present crime is registered.

4. The Criminal Miscellaneous (Bail) Application No.2193 of 2019 preferred by the Appellants for pre-arrest bail has been rejected by the learned Additional Sessions Judge, Nashik by its Order dated

6th January 2020.

5. Mr. Kadam, learned counsel for the Appellants submitted that, the Appellants and in particular, the Appellant No.2 has lodged a crime against Respondent No.2 and his brother bearing C.R. No.343 @ 226 of 2019 on 23rd December 2019 at about 20.47 (08.47 p.m.) under Sections 147, 148, 149, 324, 354, 323, 504, 506, 447, 427 of the Indian Penal Code. He submitted that, as a matter of fact, Respondent No.2 and his brother were aggressor at the time of said alleged incident and therefore the Appellant No.2 has filed the said C.R. No.343 @ 226 of 2019, which is prior in point of time than the present crime. He submitted that, while the Appellants tried to defend themselves, Respondent No.2 had suffered the injury in the said melee. He further submitted that, as and by way of an afterthought, Respondent No.2 has lodged the present crime thereby, falsely implicating the Appellants in it. He further submitted that, Respondent No.2 being a member of Schedule Tribe, the provision of SC & ST Act have been applied and not more than it. He therefore prayed that, the Appellants may be granted pre-arrest bail by allowing present Appeal.

6. Per contra, the learned APP vehemently opposed the Appeal. Learned APP pointed out the material collected by the Investigating Officer, till today. The learned APP submitted that, a strong *prima-facie* case under the SC & ST Act has been made out by Respondent No.2, and

therefore, the present Appeal may be dismissed.

7. A bear perusal of the present F.I.R. would clearly indicate that, the Appellants hurled abuses on the tribe of Respondent No.2 and his brother at a public place and within the public view. There were other witnesses present at the time of the said incident. A case lodged by the Appellants and counter case lodged by Respondent No.2 demonstrate that, an incident or a melee had in fact taken place on 23rd December 2019 at about 11.00 a.m. at the scene of offence. At this stage, there is no reason to disbelieve the statement of Respondent No.2 mentioned in the F.I.R. about the abuses hurled on their tribe by the Appellants. The Medical Certificates issued in favour of Appellants and Respondent No.2 duly corroborate the version of assault by the concerned on respective injured witnesses. In view thereof, a strong *prima-facie* case as contemplated under the provisions of the SC & ST Act, has been made out by the prosecution.

8. In view of the above, this Court is of the opinion, the Appellants do not deserve to be protected by pre-arrest bail.

Perusal of Order dated 6th January 2020, passed by the Trial Court indicates that, it has not committed any error either in law or on facts.

9. The present Appeal being de hors on merits, is accordingly dismissed.

10. At this stage, Mr. Kadam, learned counsel for the Appellants submitted that, the Appellants intend to challenge the present Order before the Hon'ble Supreme Court, and therefore, interim relief granted by Order dated 4th January 2021 be continued for a period of four weeks from today.

11. In view of the request made by Mr. Kadam, learned counsel for the Appellants, the operation and implementation of the present Order is stayed for a period of four weeks from the date of uploading of this Order on the website of Bombay High Court.

(A. S. GADKARI, J.)