

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**CRIMINAL APPELLATE JURISDICTION****CRIMINAL APPEAL NO. 210 OF 2020**

Shri. Sunil Kacharu Boraste
and anr.

.....Appellants

V/s.

The State of Maharashtra
and anr.

.....Respondents

* * * *

Ms. Avanti Inamdar i/by. Mr. R.N. Gite, Advocate for the
appellants.

Ms. M.R. Tidke, APP for State.

Coram : Sandeep K. Shinde, J.

Thursday, 25th November, 2021.

P.C. :

1. Appellants are seeking pre-arrest bail in connection with Crime No.121/2020 registered at Dindori Police Station, Nashik for the alleged offences punishable under Sections 504, 506 read with Section 34 of the Indian Penal Code and under Section 3(1)(r)(s) and 3(ii)(Va) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 ("Atrocities Act" for short). Complainant (respondent no.2) has caused his appearance

and filed a reply dated 9th February, 2021. None appears for the complainant-respondent no.2.

2. Heard learned Counsel for the appellants and learned Prosecutor for the State.

3. Perused the FIR, copy of the sale-deed dated 17th December, 2017; order in RTS Appeal No.306 of 2018 and the reply of the respondent no.2.

4. Primary evaluation of the documents aforestated clearly show that the dispute between the complainant and the applicants, relates to land bearing Gat No.266 at Village-Hathnore, Taluka-Dindori. Applicants-accused are claiming title over the disputed portion of land, whereas the complainant would contend that, it belongs to Mahar community and was allotted to them as Mahar Vatan. It also appears, there are proceedings pending between the parties under Section 107 of the Criminal Procedure Code. Therefore, essentially the complaint filed by respondent no.2 arises on account of

dispute over Gat No.266. Even otherwise, it appears in 2017 and 2018, similar complaints were filed by the respondent no.2 as against the appellants and their family members wherein this Court had granted pre-arrest bail in Criminal Appeal No.635/2017 arising from Crime No.179/2017.

5. The Affidavit filed by the respondent no.2 has not disclosed or disputed the earlier offence i.e. Crime No.179/2017 registered against the appellant at his instance.

6. In consideration of the facts of the case, in my view, the FIR does not constitute offences under the Atrocities Act. For these reasons, the appeal is allowed. Hence, the following order :

ORDER

(i). In the event of arrest of the appellant in Crime No.121/2020 registered at Dindori Police Station, they shall be released on bail on executing

P.R. Bond in the sum of Rs.20,000/- (Rs. Twenty Thousand only) with one or more sureties in the like sum.

(ii) The appellants shall report to the Investigating Officer as and when called.

(iii) The appellants shall furnish their permanent residential address and contact number to the Investigating Officer forthwith.

(iv) The appellants shall not tamper with the evidence or attempt to influence or contact the complainant, witnesses or any person concerned with the case.

7. It is made clear that, observations made hereinabove, shall be construed as expression of opinion for the purpose of granting bail only and the same shall not, in any way, influence the trial in other proceedings.

8. Appeal is disposed off in the aforesaid terms.

(Sandeep K. Shinde, J.)