

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

CRIMINAL APPEAL NO.624 OF 2021

Sachin M. Bhalerao ...Appellant
Vs
The State of Maharashtra
& Anr. ... Respondents

...

Mr.Gaurav Parkar for the Appellant in Appeal
No.624/21.

Mr. Sachin S. Punde for appellant in Appeal
No.558/21 and 559/21.

Mr. Rajuram Kuleriya with Mr. Rajput for
R.No.2 in all appeals.

Mr. A.D. Khamkhedkar APP for the Respondent-
State.

PSI Ms. Ashwini Raut, Kharghar P.Stn. Present.

CORAM : SANDEEP K. SHINDE J.

DATE : DECEMBER 01, 2021.

P.C. :

It is an appeal under Section 14A of the
Scheduled Castes and Scheduled Tribes (Prevention
of Atrocities) Act, 1989 ('Act of 1989' for
short).

2 Apprehending arrest in connection with the Crime No.204 of 2021 registered with Kharghar Police Station for the offences punishable under Sections 141, 143, 323, 506, 354b of the Indian Penal Code 1860 and Sections 3(1)(r), 3(1)(s) and 3(1)(w)(i) of the Act of 1989, appellant seeks pre-arrest bail.

3 Heard Mr. Parkar, the learned counsel for the appellant, Mr. Khamkhedkar, the learned Prosecutor for the State and Mr. Kuleriya, the learned counsel for the complainant.

4 Primary evaluation of the First Information Report and such other material on record suggests, the long standing dispute between the complainant on one hand and accused and other villagers on the other hand, over the cultivation of the lands, which were allotted to the villagers, being Project Affected Persons. The

allegations that the appellant attempted to disrobe the complainant are concerned, prima-facie, same appear to be manipulative version of the complainant, in-as-much as this allegation is not corroborated or supported by the independent witnesses, who were present on the spot of the incident. Moreover, appellant also belongs to Scheduled Caste community. In consideration of the facts of the case, neither offence under the Act of 1989 nor under 354B of the Indian Penal Code, 1860 has been made out against the appellant.

5 For the reasons stated above, appeal is allowed and hence, the following order:

ORDER

(I) In the event of the arrest of the Appellant in Crime No. 204 of 2021 registered with Kharghar Police, he shall be released on executing PR bond for the sum of Rs.10,000/- with one or more sureties in like sum.

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

(iii) The appellant shall join the investigation as and when called.

6 The appeal is accordingly allowed and disposed of.

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

(SANDEEP K. SHINDE, J.)

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPEAL NO.558 OF 2021

Shrirang Ramji Kesarkar ..Appellant
Vs
The State of Maharashtra
& Anr. ..Respondents

WITH
CRIMINAL APPEAL NO.559 OF 2021

Sadanand S. Bhatose
and Ors. ..Appellants
Vs
The State of Maharashtra
& Anr. ..Respondents

...
Mr.Gaurav Parkar for the Appellant in Appeal
No.624/21.
Mr. Sachin S. Punde for appellant in Appeal
No.558/21 and 559/21.
Mr. Rajuram Kuleriya with Mr. Rajput for
R.No.2 in all appeals.
Mr. A.D. Khamkhedkar APP for the Respondent-
State.
PSI Ms. Ashwini Raut, Kharghar P.Stn. Present.

CORAM : SANDEEP K. SHINDE J.
DATE : DECEMBER 01, 2021.

P.C. :

These appeals are filed under Section 14A of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 ('Act of 1989' for short).

2 Apprehending arrest in connection with the Crime No.204 of 2021 registered with Kharghar Police Station for the offences punishable under Sections 141, 143, 323, 354-B and 506 of the Indian Penal Code, 1860 and Sections 3(1)(r), 3(1)(s) and 3(1)(w)(i) of the Act of 1989, appellants are seeking pre-arrest bail.

3 Primary evaluation of the representations made by the villagers in May, 2021 to the Revenue Authorities, reveals long standing dispute between the appellants and the complainant over the cultivation of the lands, that were allotted to the appellants by the State, being Project

Affected Persons. In the representations, appellants were apprehensive that they would be implicated in false case by the complainant or other cultivators over a dispute with them, concerning cultivation of lands.

4 In the background of the facts of the case, prima-facie, in my view, factitious and false implication of the appellants in the crime cannot be ruled out. Two co-accused have been granted anticipatory bail by the trial Court, having found that they were not present on the spot of the incident. This fact re-enforces appellants' submission that they have been falsely implicated in this case. The allegations in the First Information Report and material on record, does not disclose commission of offence under the Act of 1989. Even otherwise prosecution has filed charge-sheets against the two co-accused, meaning thereby investigation is over and, therefore,

custodial interrogation of the appellants is not required.

5 That for the reasons stated above, case is made out for granting pre-arrest bail to the appellants. Hence, the following order:

ORDER

(I) In the event of the arrest of the Appellants in Crime No. 204 of 2021 registered with Kharghar Police, they shall be released on executing PR bond for the sum of Rs.10,000/- each with one or more sureties in like sum.

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

(iii) The appellants shall join the investigation as and when called by the Investigating Officer.

6 The appeals are accordingly allowed and

disposed of.

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

(SANDEEP K. SHINDE, J.)