

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

CRIMINAL APPEAL NO. 579 OF 2021

1. Jitendra Nanajibhai Pokar
2. Paresh Nanji Patel ...Appellants
Versus
The State of Maharashtra and Anr. ...Respondents

Mr. Hrishikesh A. Mundargi a/w Mr. Ashutosh K. Gaikwad i/b Mr. K. L. Gaikwad, for the Appellants.

Ms. P. P. Shinde, A.P.P for the Respondent No.1 – State.

Mr. Anuj Tiwari, for the Respondent No.2.

CORAM : REVATI MOHITE DERE, J.

DATE : 2nd AUGUST, 2021

P.C. :

1. Heard learned counsel for the parties.

2. By this appeal, the appellants seek their enlargement on bail in connection with C.R.No. 171 of 2021 registered with the Nashik Road Police Station, Nashik, for the alleged offences punishable under Sections 354, 354-A, 323, 324, 294, 427, 504 r/w 34 of the Indian Penal Code and under Section 3(1)(w) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act.

3. Learned Counsel for the appellants submits that the allegations made by the respondent No.2/First Informant are false and baseless. He submits that the appellants are the power of attorney holders of the original owners of the property i.e. Dilip Bhansali and Kishore Bhavani (Patel). He submits that Dilip Bhansali and Kishore Bhavani had purchased the land in question from the grandmother of respondent No.2 – Anita Genu Jagtap sometime in 2011. He submits that there are civil disputes initiated by the respondent No.2 with respect to the said land as against Dilip Bhansali and Kishore Bhavani.

4. Learned Counsel for the appellants submits that the dispute with respect to the land between the appellants and the respondent No.2 is evident from the fact that several complaints were lodged by the appellants as against the respondent No.2.

5. Learned Counsel for the respondent No.2 opposes the appeal. He submits that the property in question belongs to the cousin brother of the respondent No.2. He submits that the respondent No.2's family is in possession of the said land. The said statement is disputed by the learned counsel for the appellants. According to the learned counsel for the appellants, the appellants are in possession of the said land.

6. Perused the papers. It appears that the respondent No.2's grandmother had entered into an Agreement to Sell with Dilip Bhansali and Kishore Bhavani sometime in January 2011 and a Sale Deed was effected between the said parties on 31st May 2011. According to the respondent No.2 as Dilip Bhansali and Kishore Bhavani had not completed the conditions and formalities, the respondent No.2's family had approached the Collector for getting the Sale Deed cancelled. As the application preferred by the respondent No.2's family was rejected, the respondent No.2's family approached the Revenue Commissioner, who cancelled the said Sale Deed. As against the said order passed by the Revenue Commissioner, the appellants i.e. power of attorney holders of Dilip Bhansali and Kishore Bhavani approached the Revenue Minister. It appears that the respondent No.2's family has challenged the said order passed by the Revenue Minister in this Court. It thus appears that there is a dispute between the parties with respect of the land in question sold by the respondent No.2's grandmother to Dilip Bhansali and Kishore Bhavani .

7. Be that as it may, as far as the present appeal is concerned, it is in respect of an incident which took place on 26th June 2021. It is alleged by the respondent No.2 that the appellants along with others entered the said land with a JCB machine and when questioned, pushed the respondent

No.2 by touching her inappropriately. It also alleged that the appellants hurled castiest abuses at the respondent No.2. As noted above, there is litigation pending between the parties. It also appears that complaints have been filed by the appellants as against respondent No.2 and others with various authorities. The said complaints are from Exhibit-AA onwards. The appellants are in custody since 26th June 2021.

8. In the facts, further detention of the appellants is not warranted. Accordingly, the Appeal is allowed and the appellants are enlarged on bail, on the following terms and conditions:-

ORDER

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- i) The Appellants be released on cash bail in the sum of Rs.20,000/- each, for a period of eight weeks;
- ii) The Appellants shall within the said period of eight weeks, furnish P.R. Bond in the sum of Rs.20,000/- each, with one or two sureties in the like amount;

iii) The Appellants shall attend the concerned Police Station, on every Saturday between 10:00 a.m. to 11:00 a.m., till the filing of the charge-sheet and thereafter on the first Saturday of every month, between 10:00 a.m. to 11:00 a.m., till the conclusion of the trial;

iv) The Appellants shall not enter the jurisdiction of Nashik Road Police Station, Nashik, except for the purpose of attending the police station as per clause (iii), till the filing of the charge-sheet;

v) The Appellants shall inform their latest place of residence and mobile contact number immediately after being released and/or change of residence or mobile details, if any, from time to time to the trial Court as well as to the concerned Police Station, in writing;

vi) The Appellants shall not tamper with the evidence or attempt to influence or contact the complainant, witnesses or any person concerned with the case;

9. The Appeal is allowed and disposed of in above terms.

10. It is made clear, that the observations made herein are *prima facie*, and the trial Court shall decide the case on its own merits, in accordance with law, uninfluenced by the observations made in this order.

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

REVATI MOHITE DERE, J.