

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.

Criminal Appeal No.218 of 2021

1. Samadhan S/o Narayan Bhore,
Aged 34 years,
Occupation - Agriculturist.
2. Sonu @ Sonal S/o Basuling Paturkar,
Aged 28 years,
Occupation - Labourer.

Both R/o Sangaon, P.S. Asegaon,
Tq. Mangrulpir, Dist. Washim.

...Appellants

Versus

1. State of Maharashtra,
through P.S.O. Asegaon,
Tq. Mangrulpir, Dist. Washim.
2. Vishal S/o Bajirao Bhagat,
Aged 24 years,
Occupation - Agriculturist,
R/o Sangaon, P.S. Asegaon,
Tq. Mangrulpir, Dist. Washim.

...Respondents

Shri R.N. Ghuge, Advocate for Appellants.
Shri A.M. Kadukar, Additional Public Prosecutor for Respondent
No.1.
Shri Sandip Patke, Advocate for Respondent No.2.

CORAM : VINAY JOSHI, J.
DATE : 7th JULY, 2021

ORAL JUDGMENT :

1. Hearing was conducted through video conferencing.
2. Admit. The learned counsel for the respondents waive service. By consent, the matter is heard finally.
3. The appellants are apprehending to be arrested in Crime No.142 of 2021 registered at Police Station Asegaon for the offences punishable under Sections 143, 144, 147, 148, 149, 307, 324, 323, 504 and 506 of the Indian Penal Code and Sections 3(1)(i), 3(1)(s), 3(1)(za), 3(1)(y) and 3(2)(va) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act. While claiming protection, it is strongly argued by Shri Ghuge, the learned counsel for the appellants, that the appellants are falsely implicated in the offences. According to the learned counsel, in fact, the appellants were victims of the incident, for which the appellant No.1 has lodged the report with the police against the respondent No.2 for allegedly committing offence punishable under Section 307 of the Indian Penal Code. According to the learned counsel, in order to make

a counter check, a false complaint has been lodged against the appellants.

4. On the other hand, the learned Additional Public Prosecutor for the respondent No.1/ State as well the learned counsel for the respondent No.2 have resisted the bail by stating that a prima facie case has been made out and, therefore, due to statutory bar, the appellants are not entitled for anticipatory bail.

5. Having regard to the factual contents, this Court, vide order dated 8-6-2021, has granted interim protection by recording a prima facie finding that the appellants have made out a case for grant of interim relief. I have perused the report lodged against the appellants dated 10-5-2021. It is alleged that the appellants used to fetch water by passing from the house of the informant. On the date of incident, there happened to be quarrel in which the appellants allegedly abused the informant in the name of caste. I have also gone through the FIR registered on the same date, in which the appellant No.1 has alleged that on the same date and at the

same time, the respondent No.2 and others have assaulted him by means of rod and attempted to commit his murder. Perusal of both these FIRs discloses that both the informants reached to the Police Station at the same time, however the appellants' report was taken subsequent to the report of the informant.

6. Perusal of the FIR prima facie shows that the main allegations are against the appellant No.1, whilst there is no specific role of giving abuses to the appellant No.2. It is argued that the reading of FIR nowhere discloses that the appellants had intended to humiliate the respondent No.2 and, therefore, the essential ingredients have not been made out. It is evident from the contents of the FIR that the entire dispute arose on the point of using a pathway for fetching water. It is a matter of trial to find out whether the alleged abuses were intentionally made to humiliate the informant. Admittedly, the offence of grave nature has been registered against the informant. Therefore, the contention of false implication requires consideration. The possibility of false implication as a counter check cannot be ruled out. There is substance in the

contention that no prima facie case has been made out. Having regard to these peculiar facts, the statutory bar would not apply. Nothing is to be seized at the instance of the appellants. The purpose would be served if the appellants are directed to attend the concerned Police Station to facilitate the investigation. Hence, the following order :

ORDER

- (I) The appeal stands allowed.

- (II) The interim order dated 8-6-2021 is hereby made absolute with further direction that the appellants shall attend the concerned Police Station on every Sunday and Thursday between 10 a.m. and 1 p.m. till filing of the chargesheet.

7. The appeal stands disposed of accordingly.

JUDGE.