

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

CRIMINAL APPEAL NO. 424 OF 2020

1. Amol Gajanan Jambhe,
Aged about 25 years, Occ. Student,
R/o Chintamani Nagar, Satalpura,
Tq. Khamgaon, Distt. Buldhana.
2. Sandeep Gajanan Jambhe,
Aged about 29 years, Occ. Labourer,
R/o Chintamani Nagar, Satalpura,
Tq. Khamgaon, Distt. Buldhana.

.... **APPELLANTS**

// VERSUS //

1. State of Maharashtra, through Police
Station Officer, Police Station, Shivaji Nagar,
Tq. Khamgaon, Distt. Buldhana.
2. Bharti Vijay Patole,
Aged 40 years,
R/o Mahakal Chowk, Khamgaon,
Tq. Khamgaon, Distt. Buldhana.

.... **RESPONDENTS**

Shri S.V. Shirpurkar, Advocate for Appellant.
Ms. T. Udeshi, A.P.P. for respondent no. 1.
Shri S.S. More, Advocate for respondent no. 2.

CORAM : SMT. ANUJA PRABHUDESSAI, J.
DATED : 04/02/2021.

JUDGMENT :

Heard learned Counsel for the Appellants and learned A.P.P.

for the State.

2. **ADMIT.** By consent of the learned Counsel appearing for the parties, Appeal is taken up for final disposal.

3. This is an appeal filed under Section 14-A(1) of the Scheduled Caste and Scheduled Tribes (Prevention of Atrocities) Act, 1989 (for short “the SC and ST Act”). The Appellants apprehend their arrest in Crime No. 360 of 2020 for offences punishable under Section 354(d), 504 read with 34 of the Indian Penal Code and Section 3(1)(r) (s)(u) of the SC and ST Act. The said crime was registered pursuant to the First Information Report dated 02.08.2020 lodged by the Respondent no. 2. The allegations in the F.I.R. are that the father of the Appellants, had prepared a video clip stating that the first informant who is a member of scheduled caste, was having an illicit relationship with one driver. It is alleged that the said video clip was made viral.

4. The application for pre-arrest bail filed by the Appellants has been rejected by the Trial Court mainly on the ground that the Appellants have threatened and abused the first informant and that the investigation is at a crucial stage. Being aggrieved by this order, the Appellants have filed the present appeal.

5. It is pertinent to note that the allegations of recording of a video clip and making it viral are essentially against the father of the Appellants. The allegations against the Appellants are general in nature. The records do not *prima facie* indicate that the Appellants had intentionally insulted, humiliated or abused the first informant within public view. Consequently the bar under Section 18 is *prima facie* not attracted. Taking note of these facts, this Court vide order dated 27.10.2020, had granted interim bail with directions to the Appellants to attend the concerned Police Station every Monday. Learned A.P.P. concedes that, the Appellants have not violated the terms and conditions of the interim bail or threatened or interfered with the victim during the period they were on interim bail.

6. Learned A.P.P. has vehemently opposed the application on the ground that a non-cognizable case has been registered against the Appellants for threatening and pressurizes the first informant to withdraw the present F.I.R. This contention *prima facie* cannot be accepted for a simple reason that the non-cognizable report was allegedly registered on 19.05.2020 whereas the present F.I.R. was registered on 02.08.2020. Be that as it may bail cannot be rejected on such vague apprehension. Even otherwise such apprehension can be alleviated by imposing stringent conditions.

7. Considering the above facts so also the nature of the offence, the Appellants in my considered view, are entitled for regular bail, hence the following order :

- (a) The Criminal Appeal is allowed.
- (b) In the event of arrest, the Appellants namely 1. Amol Gajanan Jambhe and 2. Sandeep Gajanan Jambhe, are ordered to be released on bail on furnishing P.R. bond of Rs.15,000/- each with one surety in the like amount.
- (c) The Appellants shall appear before the Special Court as and when required.
- (d) The Appellants shall report to the investigating Officer once in a month till filing of the charge-sheet.
- (e) The Appellants shall not interfere with the victim and other witnesses in any manner.

8. The Criminal Appeal stands disposed of accordingly.

JUDGE

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