

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

925 CRIMINAL APPEAL NO. 191 OF 2022

- 1] Uttam S/o. Ambadas Barse.
2] Ganesh S/o. Narayan Karbhar.
3] Changdev S/o. Eknath Jadhav. ... Appellants

Versus

- 1] The State of Maharashtra.
2] Rambhabai W/o. Ratan Kakde. ... Respondents

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Mr. Aminullah Ahmed Khan, Advocate for Appellants.
Mr. R. D. Sanap, APP for Respondent/State.
Mr. Vishal A. Bagal, Advocate for Respondent No.2.

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CORAM : **SHRIKANT D. KULKARNI, J.**

DATE : 21st September, 2022.

PER COURT.:

. The appellants have challenged the order of rejection of anticipatory bail passed by the learned Additional Sessions Judge, Vaijapur dated 3rd March, 2022 in Criminal Bail Application No.83 of 2022 by way of this appeal.

2 Heard Mr. Aminullah Khan, learned counsel for the

appellants, Mr. Sanap, learned APP for the State and Mr. V. A. Bagal, learned counsel for respondent No.2/first informant.

3 Mr. Khan, learned counsel for the appellants submitted that Crime No.53 of 2022 came to be registered at Gangapur Police Station, District Aurangabad at the instance of Rambhabai Ratan Kakde, who happens to be wife of Ratan Yadav Kakde, who is the member of Grampanchayat Shingi, for the offences punishable under Sections 354, 354-A, 323 and 504 read with 34 of the Indian Penal Code and Sections 3(1)(w)(i) and 3(1)(w)(ii) of the Scheduled Caste and Scheduled Tribes (Prevention of Atrocities) Act, 1989. He submitted that appellant No.1 has lodged the FIR against the Deputy Sarpanch and other persons of the village vide Crime No.52 of 2022, which was first in point of time. This FIR is second in point of time only with a view to give counterblast to the FIR filed by appellant No.1 in connection with Crime No.52 of 2022. He submitted that the incident narrated in the FIR lodged by first informant / Rambhabai has never occurred. In fact, Rambhabai and her husband intend to grab one house under the *Gharkul* scheme, which the appellant No.1/Gramsevak opposed it. He further invited my attention to the certified copy of the report submitted by the SDPO, Gangapur dated 2nd March, 2022. The same is taken on record and marked as 'X' for identification. He pointed out that as per the report submitted by the

investigation officer / SDPO, Gangapur, he is conducting investigation of both the crimes vide Crime No.52 of 2022 and Crime No.53 of 2022. While conducting the investigation, the SDPO, Gangapur do not get any evidence against the present appellants, which indicates that a false FIR has been filed against the present appellants only with a view to give counterblast to the case filed by appellant No.1. He submitted that the provisions of the Atrocities Act do not attract in this case, even if the allegations are taken at its face value. He, therefore, urged to grant anticipatory bail.

4 Mr. Bagal, learned counsel for respondent No.2 strongly opposed to grant anticipatory bail to the appellants. He submitted that the first informant lady belongs to scheduled caste. She has attributed serious allegations against the appellants. It is a case of outraging the modesty of a female member of the scheduled caste as appearing from the FIR. As such, *prima-facie*, the provisions of section 3(1)(w)(i) of the Atrocities Act attract. The appellants are not entitled to get anticipatory bail in view of the bar provided under the Atrocities Act. He, therefore, urged that the appeal may be dismissed.

5 Mr. Sanap, learned APP for the State submitted that as per the report submitted by the SDPO, Gangapur, it was revealed during the course of investigation of Crime No.53 of 2022, registered at

Gangapur Police Station, District Aurangabad, for the offences punishable under Sections 354, 354-A, 323 and 504 read with 34 of the Indian Penal Code and Sections 3(1)(w)(i) and 3(1)(w)(ii) of the Scheduled Caste and Scheduled Tribes (Prevention of Atrocities) Act, 1989, that first informant / Rambhabai Kakde has purposely given false FIR against the present appellants only with a view to give counterblast to the FIR lodged by the appellant No.1 against Deputy Sarpanch and members of the village Panchayat. He submitted that as per the report submitted by the SDPO, the investigation officer has filed 'B' summary report dated 21st May, 2022 in the Court of District and Sessions Judge, Vaijapur and the matter is under process.

6 Having regard to the submissions of both the sides and the learned APP for the State and in view of the report submitted by the investigation officer / SDPO, Gangapur, it would be clear like daylight that the FIR lodged by Rambhabai Kakde vide Crime No.53 of 2022 is found to be a false FIR only with a view to give counterblast to the FIR filed by appellant No.1. Certainly, the appellants are entitled to get anticipatory bail though Sections 354, 354-A, 323 and 504 read with 34 of the Indian Penal Code and Sections 3(1)(w)(i) and 3(1)(w)(ii) of the Scheduled Caste and Scheduled Tribes (Prevention of Atrocities) Act, 1989 are alleged against the appellants. In the result, the following order is passed:

ORDER

- I. The criminal appeal stands allowed.
- II. The impugned order of rejection of anticipatory bail passed by the learned Additional Sessions Judge, Vaijapur in Criminal Bail Application No.83 of 2022 dated 3rd March, 2022, is hereby quashed and set aside.
- III. In the event of arrest of appellants (Uttam Ambadas Barse, Ganesh Narayan Karbhar and Changdev Eknath Jadhav) in connection with Crime No.53 of 2022, registered at Gangapur Police Station, District Aurangabad, for the offences punishable under Sections 354, 354-A, 323 and 504 read with 34 of the Indian Penal Code and Sections 3(1)(w)(i) and 3(1)(w)(ii) of the Scheduled Caste and Scheduled Tribes (Prevention of Atrocities) Act, 1989, they shall be released on bail on their furnishing P.R. bond of Rs.20,000/- (Rupees Twenty Thousand Only) each with one or two solvent sureties of the like amount by each of them on following condition :

“The appellants shall furnish their in detail address and cell numbers with the concerned investigation officer and shall remain present if called by the investigation officer in future.”

- IV. Inform to the concerned police station accordingly.
- V. With the above directions, the criminal appeal stands disposed of.

[SHRIKANT D. KULKARNI, J.]

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