

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

CRIMINAL APPEAL NO. 289 OF 2022

1. Ravi Shivaji Sathe
Age; 29 years, Occu.: Student,

2. Santosh Suresh Sathe
Age; 35 years, Occu.: Agri.,

Both R/o Bankat Galli, Ambejogai,
Dist. Beed

..APPELLANTS

VERSUS

1. State of Maharashtra
Through Police Station Ambejogai City,
Tq. Ambejogai, Dist. Beed

2. Pramod Dhondiram Kople
Age: 43 years, Occu.: Agri.,
R/o Housing Society, Ambejogai,
Tq. Ambejogai, Dist. Beed

..RESPONDENTS

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Mr. R.D. Biradar, Advocate for appellants

Mr. G.O. Wattamwar, A.P.P. for respondent no.1 – State

Mr. Joydeep Chatterjee, Advocate h/f Mr. A.V. Patil, Advocate for respondent no.2

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CORAM : R.G. AVACHAT, J.

DATE : 26th APRIL, 2022

PER COURT :

1. This is an appeal under Section 14-A of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 ('the Act'). The challenge in this appeal is to an order dated 30th March, 2022 in Criminal Bail

Application No. 155 of 2022 passed by the learned Additional Sessions Judge, Ambejogai refusing to grant the appellants anticipatory bail in connection with Crime No. 89 of 2022 registered with Ambejogai City Police Station, Dist. Beed for the offences punishable under Sections 143, 147, 148, 149, 324, 323, 504 and 506 of the Indian Penal Code ('I.P.C.') and under Sections 3(1)(r), 3(1)(s), 3(1)(f) and 3(1)(g) of the Act.

2. Heard. Perused the First Information Report ('F.I.R.') and related papers.

3. The F.I.R. has been lodged on 03rd March, 2022 in relation to the incident that took place the same day. It is alleged in the F.I.R. that by 12.30 p.m., the informant alongwith his father and brother had been to Ambejogai Shivar for measurement of land Gut No. 340/2. The appellants herein alongwith two other family members viz. Suresh Sathe and Balasaheb Sathe and four-five other unknown persons came to the site and questioned the informant as to why did the land was surveyed/measured. All of them abused the informant and his family members over their caste. Appellant No.1 – Ravi assaulted the informant over his eye with an axe. Appellant No.2 – Santosh abused them over their caste and assaulted with an iron rod. The crime, therefore, came to be registered.

4. Learned counsel for the appellants would submit that there is delay of over eight hours in lodging the F.I.R. No incident as alleged in the F.I.R. has taken place. There is property dispute between the two families. False F.I.R. has, therefore, been lodged. He would further submit that the informant was very much present before the Court. Had he really suffered an injury with an axe, he would have been in hospital for many a days. According to him, since false F.I.R. has been lodged, the appellants be protected.

5. Learned A.P.P. and learned counsel for Respondent No.2 – informant would, on the other hand submit that the incident took place in a public place. There are eye witnesses to the incident. The papers of investigation and medical papers have also been placed on record with an ultimate submission that the allegations in F.I.R. undoubtedly make out the offence/s punishable under the Act, and therefore, there is bar under Section 18 of the Act to grant pre-arrest bail. They, therefore, urged for dismissal of the appeal.

6. Considered the submissions advanced. The crime was registered against four persons, two of them have been arrested and released on bail as well. Appellant No.1 – Ravi is alleged to have assaulted the informant over his eye with an axe. The informant was very much present in the Court.

Learned counsel for the appellant was justified in submitting that had the informant really been assaulted with an axe, he would have been in the hospital. All the offences under the I.P.C. registered against the appellants are bailable one. Appellant No.1 – Ravi is said to have been appearing for competitive examination. He and the co-accused have been alleged to have abused the informant over caste in chorus. Such happening is difficult to imagine. This Court is, therefore, inclined to grant pre-arrest bail to Appellant No.1 – Ravi.

7. The F.I.R. was lodged within hours of the incident. Appellant No.2 – Santosh has been specifically attributed with an assault to the informant with an iron rod. He is also alleged to have abused the informant over his caste. There are statements of witnesses to reinforce the allegations in the F.I.R. True, the I.P.C. offences registered against him are all bailable one. Custodial interrogation of Appellant No.2 – Santosh may not be required. It is, therefore, observed that if Appellant No.2 – Santosh surrenders before the Sessions Court and moves an application for bail, the said Court is requested to decide it same day on its merits after hearing all the concerned. Needless to mention that the Court may grant ad-interim bail as well. These are the only observations. If such an application is moved, the concerned Court shall decide the same on its merits.

8. In view of above, the following order :-

ORDER

(i) Criminal appeal is partly allowed.

(ii) In the event of arrest of Appellant No.1 – Ravi Shivaji Sathe in connection with Crime No. 89 of 2022 registered with Ambejogai City Police Station, Dist. Beed for the offences punishable under Sections 143, 147, 148, 149, 324, 323, 504 and 506 of the Indian Penal Code and under Sections 3(1)(r), 3(1)(s), 3(1)(f) and 3(1)(g) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989, he be released on executing P.R. bond in the sum of Rs.15,000/- (Rupees Fifteen Thousand) with one surety in the like amount.

(iii) Appellant No.1 – Ravi Shivaji Sathe shall not tamper with the prosecution evidence. He shall appear before the investigating officer as and when required.

(iv) Appeal is rejected so far as Appellant No.2 – Santosh Suresh Sathe is concerned.

(R.G. AVACHAT, J.)

SSD