

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

**907 CRIMINAL APPEAL NO.321 OF 2022**

**EKNATH RAMBHAU PATOLE AND OTHERS  
VERSUS  
THE STATE OF MAHARASHTRA AND ANOTHER**

Mr. S. D. Hiwrekar, Advocate for the appellants  
Ms. Priyanka P. Shinde, Advocate for the respondent No.2  
(appointed)

**CORAM : KISHORE C. SANT, J.**

**DATE : 18<sup>th</sup> October, 2022**

**P. C.**

1. Heard learned advocate for the appellants, learned advocate for respondent No.2 and learned APP for the respondent/State.

2. FIR lodged by respondent No.2 states that on 18-03-2022 appellant No.1 came to her house and from the door of the house abused the informant. He also torn blouse of the informant and thrown chilly on her face. Thereafter, appellant Nos.2 and 3 also came there and they started assaulting with sticks. At that time appellant No.1 abused the informant in the

name of caste saying that he does not want the informant to be his neighbor. Thereafter, she is threatened to vacate the house, otherwise they will set the house itself on fire. Thus, FIR was lodged on 31-03-2022. There was a complaint lodged by appellant No.2 against the informant for the offences punishable under Section 504, 506 read with Section 34 of the Indian Penal Code. He thus, submits that FIR is filed belatedly and only as a counter blast to the complaint dated 18-03-2022 which was registered as Non-cognizable. He states that it is only because of the enmity being the neighbor this complaint is filed. No ingredients are made out of the offences.

3. On the other hand learned advocate for respondent No.2 states that incident has taken place in a public place as per the allegation appellant No.1 was standing at the door of the house of the informant. Appellant No.1 has clearly abused in the name of caste. Looking to the schedule of the act even other offences are attracted under Section 2(2) (b)(a) of the Act. She submits that the delay is for the reasons that the police did not

record information immediately and had asked the informant to go to hospital first for treatment. She submits that considering bar under Section 18 when the offence is made out under Atrocities Act, no anticipatory bail can be granted.

4. Learned APP also supports the order passed by the learned trial court rejecting the anticipatory bail application.

5. Learned advocate for the appellants placed reliance on the judgment reported in (2020) 10 SCC 710 in the case of Hitesh Varma Vs State of Uttarakhand and another. He invited my attention to the paragraph Nos. 14 and 15 and submits that if the incident has taken place in the house same cannot be termed in the public view and therefore, no offence is made out under the Atrocities Act.

6. After considering the submissions and ratio in the judgment in the case of *Hitesh Varma (supra)*, it is found that allegation is made against appellant No.1 who has abused the

informant in the name of caste from the door of the house and thus it cannot be said with certainty that it was in the public view. Naturally when the informant was in the house and if the appellant is in the door of the house, naturally it would be facing towards the house and not outside the house and therefore, the place may not be within public view. Admittedly, appellant Nos. 2 and 3 have not abused in the name of caste. Role attributed to them is that they have assaulted the informant with kicks and fists. So far as the submission by learned advocate for the respondent No.2 with the aid of the schedule, offence is made out. This court feels that from the FIR what appears is that complainant and accused are neighbors and quarrel has taken place because of their disputes. There are photographs produced on record which shows abrasion on the body of the informant. However, it does not show that because of those injuries, the informant could not lodge the FIR immediately.

7. Considering the facts, a case is made out for allowing the appeal. Hence, following order.

### **ORDER**

a] Appeal No. 321 of 2022 is allowed.

b] Order passed by the learned Additional Sessions Judge dated 16-04-2022 in Criminal Bail Application No. 85 of 2022 is quashed and set aside.

c] The appellants be released on bail in the event of their arrest in connection with the Crime No.202/2022 dated 31-03-2022 registered at Ambad Police Station, Tq. Ambad, Dist. Jalna on furnishing bail bond in the sum of Rs.15,000/- [Rupees Fifteen Thousand] each with one solvent surety.

d] Learned advocate for the respondent is appointed and is entitled to receive fees from the Legal Aid.

**[KISHORE C. SANT, J.]**