

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

BENCH AT AURANGABAD

CRIMINAL APPEAL NO. 421 OF 2022

BALU RAGHUNATH DHAS AND ANOTHER
VERSUS
THE STATE OF MAHARASHTRA AND ANOTHER

WITH

CRIMINAL APPEAL NO. 422 OF 2022

DHANANJAY SUDHAKAR LATE AND OTHERS
VERSUS
THE STATE OF MAHARASHTRA AND ANOTHER

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Advocate for Appellants : Mr. Sandeep D. Munde h/f Mr. Kabade Vivek V.

APP for Respondent/State : Mr. Y. G. Gujrati

Advocate for Respondent No.2 : Mrs. Sonawane Sunita G.

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CORAM : KISHORE C. SANT, J.

DATE : 1st DECEMBER 2022.

Per Court :

Heard learned Advocate for Appellants and learned APP for State.

1. These appeals are for seeking anticipatory bail of Appellants in connection with FIR bearing Crime No. 163/2022 dated 05.05.2022

registered with Belwandi Police Station, Dist. Ahmednagar for the offences punishable under Sections 143, 147, 148, 341, 336, 323, 504, 506 of the Indian Penal Code and Section 3(1)(iv), 3(1)(v) and 3(2) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act.

2. Considering the allegation, this Court while issuing notice has specifically rejected the appeal of Appellant No.1 in Appeal No. 422/2022.

3. Considering the FIR, a case is clearly made out against Appellant No.2 and 3 in Appeal No.422/2022 that they have assaulted the Informant and they have also uttered words in the name of caste of the Informant. It appears that there is a long standing dispute over the property. However the submissions on the merits cannot be considered to grant the Anticipatory Bail, once the case is made out to be a case under the Atrocities Act.

4. So far as the Appellants in Appeal No.421/2022 is concerned, it is

the submission that both the Appellants belongs the same community to which the Respondent No.2/Informant belongs to. Hence it is clear that no case can be said to have been made out under Atrocities Act against them. As it is there is no allegations against these two Appellants that they abused the Informant in the name of caste. Other allegations are general and does not make out any specific case against them.

5. So far as Appeal No.422/2022 is concerned, there are clear utterances by Appellants in the name of caste of Respondent No.2. Considering the ratio of both the judgments in the case of Vilas Pandurang Pawar and another Vs. State of Maharashtra and others reported in (2012) 8 SCC 795 and Prathvi Raj Chauhan Vs. Union of India and others, reported in (2020) 4 SCC 727, it is clear that there is a bar under Section 18 of the Atrocities Act and this Court deems it not fit to entertain this Appeal. Hence the following order.

ORDER

(i) Criminal Appeal No.421/2022 is allowed. In the event of arrest of

the Appellant No.1- Balu Raghunath Dhas and Appellant No.2 – Vilas Raghunath Dhas in connection with Crime No. 163/2022 dated 05.05.2022 registered with Belwandi Police Station, Dist. Ahmednagar they shall be released on bail on executing P. R. bond in the sum of Rs. 15,000/- (Rs. Fifteen Thousand only) each with solvent surety in the like amount.

- (ii) Both the Appellants in Appeal No.421/2022 shall attend the concerned Police Station as and when called by the Investigating Officer and shall not tamper with the evidence and shall not try to contact any of the witnesses.
 - (iii) Criminal Appeal No.422/2022 stands rejected. Interim relief is vacated.
6. Both the Appeals are disposed off in the aforesaid terms.

[KISHORE C. SANT, J.]

Najeib.