

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

927 CRIMINAL APPEAL NO.701 OF 2022

ATUL CHAGAN SOLANKE AND OTHERS
VERSUS
THE STATE OF MAHARASHTRA AND ANOTHER

...

Advocate for Appellants : Mr. Lavte Amar Vinayakrao

APP for Respondent 1 : Mr. R D Sanap

Advocate for Respondents : Mr. Shinde Sharad S.

...

CORAM : SHRIKANT D. KULKARNI, J.

Dated: September 28, 2022

...

PER COURT :-

1. Heard finally with consent of both sides.
 2. This appeal is directed against the order of rejection of anticipatory bail passed by the learned Additional Sessions Judge, Majalgaon, District Beed in Criminal Appeal No.54 of 2022 dated 22.2.2022 and prayed for the same relief.
 3. Mr. Lavte, learned counsel for the appellant vehemently submitted that there was commercial transaction between the brother of the victim and appellants in connection with transportation of the sugarcane by engaging truck. The alleged incident had
- aaa/-

never taken place of abduction of the victim. The allegations levelled in the FIR are completely baseless. He pointed out that the FIR lodged by the mother of the victim nowhere reveals about allegations with reference to caste. He submitted that, now the investigation is over and police have filed charge-sheet. Co-accused has been released on anticipatory bail by this court vide order dated 29.8.2019 (Coram : V K Jadhav, J.) in ABA No.1093 of 2019. He also invited my attention to the statement of the victim recorded by the investigating officer during the course of the investigation and pointed out that though there are allegations of assault to Vikas Gautam Mantri (victim), charge-sheet does not find any injury certificate. He submitted that only because of dispute on account of return of money, the appellants have been falsely implicated in the crime. They may be enlarged on anticipatory bail in view of release of co-accused on pre-arrest bail vide order of this Court dated 29.8.2019.

4. Mr. Shinde, learned counsel for respondent no.2 strongly opposed to allow the appeal by granting anticipatory bail to the appellants. He invited my attention to the copy of the FIR as well as statement of the victim recorded by the police. He submitted that specific role has been attributed against the appellants. He also invited my attention to the order passed earlier by this Court referred above and submitted that these appellants had earlier applied for anticipatory bail, but their prayer for anticipatory bail was not considered favourably and that's why they had withdrawn the same. He submitted that these appellants are absconding since the date of registration of the crime. They are not entitled to get anticipatory bail on the ground of parity. He submitted that in view of bar provided under the provisions of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act (for short 'Atrocities Act') they are not entitled to get anticipatory bail in view of specific allegations levelled against the appellants.

aaa/-

5. Mr. Sanap, learned APP for the State equally opposed to allow the appeal. In addition he pointed out the order passed by this Court in ABA No.1093 of 2019 dated 29.8.2019. He submitted that, in all three persons had applied for anticipatory bail namely Munja Gopinath Munde, 2- Atul Chagan Solanke and 3- Lahudas @ Lahu Bibhishan @ Ramesh Solanke. When this Court was not inclined to grant any relief to Munja Munde and Atul Solanke, who are the present appellant nos.1 and 2; sought permission to withdraw that application and, accordingly, leave was granted and Anticipatory Bail Application to their extent came to be dismissed as withdrawn vide order dated 29.8.2019 in ABA no.1093 of 2019. He submitted that since rejection of their anticipatory bail application, they did not turn up. They went on absconding. Though police have filed charge-sheet, present appellants have been shown as absconding. Investigation to their extent is remained to be completed. He also invited my attention to the order passed by this Court regarding the observations made

aaa/-

by this Court and submitted that it is not a fit case to release the appellants on bail.

6. Having considered the submissions of the learned counsel of both sides and the learned APP for the State, I have gone through the copy of the FIR, copy of the Charge-sheet, the annexures thereto and copy of the order passed by this court in ABA No.1093 of 2019 dated 29.8.2019 (Coram : V.K.Jadhav, J.), it is revealed from the record that the present appellant nos.1 and 2 and one Lahudas @ Lahu s/o Bibhishan @ Ramesh Solanke Ramesh had jointly applied for anticipatory bail. Appellant nos.1 and 2 seem to have withdrawn their application for anticipatory bail when this Court was not inclined to grant any relief and accordingly their application for anticipatory bail came to be dismissed as withdrawn vide order dated 29.8.2019.

7. On going through the copy of the FIR and charge-sheet, it is revealed that crime No.125 of 2019 came to be registered at Dindrud Police Station, District Beed against the appellants under sections 365, 504, 506 r/w

aaa/-

34 of the IPC. After recording statement of the victim, the provisions of the Atrocities Act came to be added. According to the allegations levelled in the FIR, there was some monetary transaction between brother of the victim and the appellants and brother of the victim alleged to have taken certain amount from the appellants, but not returned the same which allegedly resulted into the incident which had taken place on 3.7.2019. According to the allegations levelled in the FIR, the victim Vikas alleged to have abducted from his village and taken to Belgi Sugar Mill Badagandi, State of Karnataka where he was confined in one room. When police approached to that spot, the appellants alleged to have removed victim from that room and by putting him in the ambulance taken to other places. Thereafter, the victim was brought back to his village and left there. On going through the statement of victim Vikas, role of the present appellants is clearly revealed including making allegations with reference to the caste.

8. It is pertinent to note that this Court refused to grant any relief vide order dated 29.8.2019, still the appellants did not co-operate to the police. In their absence investigation officer constrained to file the charge-sheet by showing the appellants as absconding u/s 299 of the Criminal Procedure Code. In this background, it is difficult to accept the submissions of Mr. Lavte, learned counsel for the appellants that charge-sheet is now filed and in view of release of co-accused on bail, the same treatment needs to be given to the present appellants.

9. Having regard to the above reasons and discussion and in view of the bar provided u/s 18 of the Atrocities Act, the appellants are not entitled to get any protection.

O R D E R

The Criminal Appeal stands dismissed.

(SHRIKANT D. KULKARNI, J.)

...