

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

918 CRIMINAL APPEAL NO.587 OF 2022

**SAVITA W/O. SUNIL KANDEKAR
VERSUS
THE STATE OF MAHARASHTRA AND ANOTHER**

Mr.K.N. Shermale, Advocate for the applicant.
Mrs.P.V.Diggikar, APP for the respondent/State.
Mr.Milind Patil, Advocate for respondent No.2.

**CORAM : KISHORE C. SANT, J.
DATED : 13.10.2022**

PC :-

01. Heard both the sides. The learned Advocate for the appellant mainly submits that the FIR is lodged only because of rivalry between the parties. There is civil dispute pending between the informant and her relatives, wherein she feels that it is this applicant and her husband, who are instigating the defendant in the suit bearing RCS No.34 of 2020, that is pending in the Court of Civil Judge, Junior Division, Kopergaon for partition. He submits that on the basis of transaction of agreement to sale with husband of applicant, the civil suit is filed. He pointed out that there is delay in lodging of the FIR. The incident of 28.06.2022 is quoted, while no offence was registered. On the contrary in the FIR, another incident quoted is of

17.07.2022. Even thereafter, there is no immediate report to police. It is only on 19.07.2022 in the evening the FIR is registered. He invited attention to the observations made by this Court in the order dated 18.08.2022, while issuing notice and granting interim protection. He also submitted that as per the conditions imposed upon the applicant, she has attended police station. Police have carried out Investigation. Applicant has also produced on record diary showing her attendance at Police Station. The learned Advocate also states that as per FIR it is not that the accused had gone to the house of the informant, however, it is the informant, who came to the house of the accused, where the alleged incident has taken place and the place is not within public view but within four walls. There is no independent witness to the incident. In the FIR itself it is stated that after the first incident of 28.06.2022 there was a compromise between the parties. Thus, the second incident is only a concocted story given by the informant.

02. The learned Advocate for the respondent No.2 submits that there is no delay in lodging the FIR. He states that the informant had approached the police, however, complaint was not taken and therefore the informant was required to approach the Superintendent of Police and it is only as per his

directions the offence was registered. However, in support of that he has not produced any material on record. He has also invited attention of this Court to the injury certificate dated 28.06.2022 to show that the incident has taken place.

03. The learned APP submits that looking at the FIR, it is clear that the offence is made out, as there are abuses in the name of caste in front of the house of the accused. He has produced investigation papers and invited attention to the statement of husband of the informant, which clearly supports the case of the prosecution.

04. Considering the above facts and record, at this stage it cannot be said that the FIR is lodged without any offence taken place. At this stage, the FIR needs to be read as it is. By looking at the FIR, it does appear that there are abuses in the name of the accused. The observations made by the learned Court below while releasing the husband of the informant on regular bail need not be considered at this stage, as it was for the purpose or regular bail. In my opinion, therefore, in view of section 18, if it is found that the allegations do attract provisions of the Scheduled Castes and Scheduled Tribes

(Prevention of Atrocities) Act, no bail can be granted in the event of arrest.

Hence, following order is passed:-

05. The appeal stands rejected.

06. At this stage, learned Advocate for the appellant points out that the appellant is a lady and festival of Diwali is approaching and earnestly requests for continuation of the interim relief granted earlier. Though continuation of interim relief is opposed, considering that the appellant is a lady and festival of Diwali is approaching, the interim relief granted earlier to continue for four weeks from today.

[KISHORE C. SANT, J.]