

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

CRIMINAL APPEAL NO. 735 OF 2022

1. Shaikh Salim S/o Shaikh Sattar

2. Shaikh Shakil Shaikh Yusuf

.. Appellants

Versus

The State of Maharashtra
Through Police Inspector
and another

.. Respondents

Mr. Shrikant G. Kawade, Advocate for the Appellants.

Mr. S. W. Munde, APP for Respondent No. 1.

Mr. V. B. Deshmukh, Advocate for Respondent No. 2.

CORAM : KISHORE C. SANT, J.

DATED : 16th DECEMBER, 2022.

P. C. :-

1. This is an appeal filed by original accused Nos. 1 and 3 seeking release on bail in the event of their arrest in connection with FIR No. 0339 dated 21.08.2022 registered with Selu Police Station, District Parbhani for the offences punishable under Sections 323, 34, 452, 504, 506 of the Indian Penal Code and Sections 3 (1) (r) and 3 (1) (s) of the Scheduled Caste and Scheduled Tribe (Prevention of Atrocities) Act (for short "Atrocities Act").

2. It is argued by the learned advocate for appellants that, the

appellants approached this Court by filing this appeal challenging an order passed by the learned Additional Sessions Judge, Parbhani dated 15.09.2022 in Criminal Bail Application No. 820/2022 thereby rejecting the bail application of these appellants. The respondent No. 2 lodged the FIR in respect of incident dated 01.08.2022 that these appellants abused the respondent and her family members in the name of caste in front of their house. The allegation is that, these appellants also entered into the house of the informant and assaulted them. There are also utterances in the name of caste.

3. It is submitted that, the informant is in habit of making complaints against the villagers under the Atrocities Act. Learned advocate for the appellants produces on record the copies of FIR dated 08.12.2015 lodged by mother of the informant for similar type of offences. However, it is seen that, in that case, the charge-sheet is also filed. The FIR dated 22.07.2016 is also lodged by this informant where also charge-sheet is filed. This informant again lodged FIR bearing No. 0235 with the same police station on 02.06.2022 for the similar offences. It is thus submitted that, the complaints are filed only to pressurize the villagers. He also produced on record the copy of representation made by all the villagers to the P.I., Police Station Selu making complaint against the informant and her family members for

indulging into the act of bringing pressure on the people in the village. He also relies upon the judgment of this Court in a case of Vinod Vs. State of Maharashtra reported in LAWS (BOM)-2022-8-41. It is submitted that, in the similar facts the High Court had granted bail to the appellant therein. Next judgment of this Court he relies upon is in a case of Keshav Reddy & Ors. Vs. The State of Maharashtra & Anr. reported in 2020 ALL MR (Cri) 278 where, the Court had considered the facts of that case and the appeal was allowed. The third judgment is in a case of Janardhan s/o Rambhau Tawde & Ors. Vs. The State of Maharashtra & Anr. reported in 2020 ALL MR (Cri) 283. In this case, the bail was granted holding that, prima facie, no offence is made out under Sections of the Atrocities Act and bail was granted. He submits that though the incident is of 01.08.2022, the FIR was lodged for the first time on 21.08.2022. There is no sufficient explanation of the delay. This also shows that the case is false and is only after thought.

4. Heard learned A.P.P. He produced the papers of investigation for perusal. The statement of the informant was recorded on 21.11.2022 wherein, it is stated by the informant that on the date of incident she was frightened. On 02.08.2022 it was learnt that the wife of this appellant No. 1 had also filed a complaint. He submits that there is clear case made out in the FIR wherein, there are utterances in the

name of caste by the present appellants and prays for rejection of the bail.

5. Learned advocate for respondent No. 2 adopted the arguments of the learned A.P.P. He further submits that the appellants have severely beaten up the informant and other family members. Pointing out seriousness of the matter he prays for rejection of the bail.

6. After hearing the parties, it is seen that, in the complaint, a case is made out attracting the ingredients of the offence punishable under Sections 3 (1) (r) and 3 (1) (s) of the Atrocities Act. Though it is tried to show that on the next date, there was a complaint filed by the wife of appellant No. 1 against the members of family of respondent No. 2 and it is for that the information is lodged, this Court finds that once the allegations made out the case under the Atrocities Act, this Court in view of bar under Section 18 need not interfere with the order passed by the learned Sessions Court and need not consider the case for bail in the event of arrest in view of the judgments of the Hon'ble Supreme Court in cases of (I) Vilas Pandurang Pawar and another Vs. State of Maharashtra and Ors. reported in (2012) 8 SCC 795 (II) Prathvi Raj Chauhan Vs. Union of India and others reported in (2020) 4 SCC 727.

7. In view of this, there is no substance in the appeal and the same stands rejected.

8. At this stage, learned advocate for the appellants prays for continuation of interim relief that was already granted.

9. Considering the fact that, the same is standing since more than a month, the same is extended for a period of four (04) weeks from today.

(KISHORE C. SANT, J.)

P.S.B.