

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

CRIMINAL APPEAL NO.584 OF 2021

1. Harish Subhash Dimote

2. Vitthal Tukaram Pawar

... APPELLANTS

VERSUS

State of Maharashtra & anr.

... RESPONDENTS

.....
Mr. Ajinkya Kale, Advocate for
Talekar & Associates for appellants
Mrs. G.L. Deshpande, A.P.P. for respondent No.1.
Ms Sunita G. Sonawane, Advocate for respondent No.2.
.....

CORAM : R. G. AVACHAT, J.

DATE : 7th JANUARY, 2022

ORDER :

The challenge in this appeal is to the order on the application of the appellants herein for grant of anticipatory bail in connection with Crime No.307/2021, registered at Shirdi Police Station, Taluka Rahata, District Ahmednagar for the offence punishable under Sections 504 and 506 read with Section 34 of the Indian Penal Code and Sections 3(1)(r), 3(1)(s) and 3(2) (va) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989.

2. Heard. Perused the F.I.R. and the documents relied on. Both the learned A.P.P. and learned counsel representing the respondent No.2/ informant would submit that, the offence under the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 (Atrocities Act) is prima facie made out against both the appellants herein. There is bar of Section 18 to grant anticipatory bail in such case. They, therefore, urged for dismissal of the appeal.

3. Learned counsel for the appellants took this Court through the F.I.R. and the telephonic conversation between the appellant Harish and the informant to show the F.I.R. to have been replete with concocted version. He, therefore, urged for allowing the appeal.

4. The F.I.R. has been lodged on 19/9/2021 relating to the incident that took place 11 days therebefore. It is averred in the F.I.R. that, both the appellants herein abused the informant over his caste.

5. Both the appellants Harish and the informant Rajendra are news reporters. The appellant No.2 has been serving as a Peon with "Shri Sai Baba Sansthan, Shirdi". The appellant Harish had a telephonic talk with the then Chief

Executive Officer of Shirdi Sansthan. The appellant Harish had recorded the conversation. A transcript thereof has been placed on record. Harish enquired with the Chief Executive Officer that a tender regarding uniform to Class IV employees of the Sansthan was issued at the behest of the informant. It appears that, the informant learnt about the said call. He, therefore, made a phone call to the appellant Harish. A transcript of the said conversation has also been placed on record. The informant took it that such information was passed on by the appellant No.2 Vitthal, a Peon of the Sansthan, to the appellant Harish. The transcript of the conversation indicates that, the informant was abusive of the appellant No.2 Vitthal. He uttered very filthy words. Be that as it may. As such, all was not well between the appellant Harish on one hand and the informant on the other.

6. The F.I.R. has been lodged 11 days after the alleged offence. Admittedly, no offence against human body has been committed by the appellants herein. Had the informant really been not keeping well, he could have lodged the F.I.R. on telephone. Delay of over 11 days in lodging the F.I.R. creates doubt over veracity of the avrmnets therein, more so when all is not well between the two. As such, the case, for grant of protection, is made out. Hence the order :

ORDER

(i) The Criminal Appeal is allowed. The dated 8/10/2021, passed by the Judge, Special Court, Kopergaon in Cri. Bail Application No.346/2021 is set aside.

(ii) In the event of arrest of the appellants in connection with Crime No.307/2021, registered at Shirdi Police Station, Taluka Rahata, District Ahmednagar for the offence punishable under Sections 504 and 506 read with Section 34 of the Indian Penal Code and Sections 3(1)(r), 3(1)(s) and 3(2) (va) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989, the appellants be released on bail on their executing P.R. bond in the sum of Rs.15,000/- (Rupees fifteen thousand) each with one solvent surety in the like amount.

The appellants shall appear before the investigating officer as and when required.

**(R. G. AVACHAT)
JUDGE**

fmp/-