

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

**CRIMINAL APPEAL NO.585 OF 2021**

1. Shankar s/o. Khima Chavan
2. Santosh s/o. Babulal Marmath ..Appellants

Vs.

1. State of Maharashtra
2. Meena w/o. Madanrao Bhivsane ..Respondents

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Mr.V.D.Sapkal, Senior Advocate h/f. Mr.S.R.Sapkal, Advocate for appellants

Ms.Geeta Deshpande, APP for respondent no.1

Mr.R.V.Gore, Advocate for respondent no.2

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**CORAM : R.G. AVACHAT, J.  
DATE : FEBRUARY 08, 2022**

**ORDER :-**

This is an appeal under Section 14-A of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 (the Act for short).

2. The challenge in this appeal is to the order dated 09.11.2021 passed by learned Addl. Sessions Judge, Vijapur, Dist. Aurangabad, refusing to grant the appellants herein anticipatory bail in connection with Crime No.410 of 2021 registered at Police Station,

Vaijapur, Dist. Aurangabad, for the offences punishable under Sections 504, 506 read with Section 34 of Indian Penal Code and Sections 3(1)(r) and 3(1)(s) of the Act.

3. Perused the First Information Report (FIR) and the related papers.

4. Learned counsel representing the informant, relying on the Apex Court judgments in the cases of (i) **Vilas Pandurang Pawar and anr. Vs. State of Maharashtra and ors., 2012 DGLS (SC) 457** and (ii) **Prathvi Raj Chauhan Vs. Union of India and ors., 2020 DGLS (SC) 163** would submit that Section 18 of the Act creates a specific bar in grant of anticipatory bail. When an offence is registered against a person under the provisions of the Act, no Court shall entertain the application for anticipatory bail, unless it, *prima facie*, finds that such an offence is not made out. Moreover, while considering the application for bail, scope for appreciation of evidence and the material on record, is limited. The Court is not expected to indulge in critical analysis of the evidence on record. Liberal use of the power to grant pre-arrest bail would defeat the intention of Parliament in enacting the Act. According to him, the appellants have been named in the FIR. The FIR clearly makes out the

offence(s) against them. Learned counsel invited attention of this Court to Sections 3(2)(vii) of the Act. According to him, both the appellants are public servants. They have joined hands with the villagers to harass the informant as alleged in the FIR. According to him, the informant has, therefore, been subjected to an enquiry. The enquiry is not yet complete in all respects. According to him, since the allegations in the FIR, *prima facie*, make out an offence under the Act, there is bar under Section 18 of the very Act to grant pre-arrest bail. He, therefore, urged for dismissal of the appeal.

5. Learned Senior Counsel appearing for the appellants, would, on the other hand, submit that the FIR has been lodged just to scuttle the departmental action that may be taken against the informant. He invited this Court's attention to certain documents to point out, as to how the informant has misused her position as a Gramsevak during the relevant time. He, therefore, urged for grant of the appeal.

6. Considered the submissions advanced by learned counsel appearing for the parties. Perused the FIR and the documents relied on.

7. There can be no two views over what has been submitted by learned counsel for the informant relying on the Apex Court's judgments, referred to herein above.

8. The FIR has been lodged on 28.10.2021 in relation to the incident that dates back to over a year.

9. The informant was serving as a Gramsevak with Grampanchayat, Bendwadi, Tq. Vaijapur, Dist. Aurangabad. Some of the villagers (named in the FIR) had made a complaint against her to her superiors. It was alleged in the said complaint that the informant and the then Village Sarpanch misappropriated funds received for construction of high-mast and R.O. shed. This complaint was made way back in 2020. The concerned Block Development Officer had made enquiry into the complaint, to find the informant and the then Village Sarpanch to have not utilised the funds for the purpose of construction of high-mast and R.O. shed. It is also found that the informant, still, paid the amount to M/s. Chitlangi Gifts and Toys. As such, the informant was *prima facie* found to have misappropriated a sum of little over Rs.Two Lakhs received for development scheme of the village. It was a specific case of some of the villagers that the development work for which the grants were received, had, in fact, not been made. The Dy. Chief Executive

Officer, Zilla Parishad, on receipt of the report of enquiry submitted by the Block Development Officer, issued notice dated 01.01.2021 to the informant, calling upon her to show cause as to why departmental action be not taken against her. It is only thereafter, the FIR came to be lodged.

10. The allegations in the FIR are very vague. It has been alleged that some of the villagers (co-accused) and the appellants herein conspired together and harassed the informant mentally. It is also alleged that all of them abused over her caste. The accused named in the FIR are ten in number. It is difficult to imagine that all of them would abuse the informant over her caste in a chores. No specific day, date and time has been mentioned, as to when the appellants herein had abused. It has also been alleged that the appellants asked the informant to spend a little over Rs.One Lakh for fixing the paver-blocks in the village, if she wants to have peace and come clean out of the complaint made by the villagers.

11. It is reiterated that the FIR was lodged after over a year was passed. Although the appellants have been named, no specific allegation is attributed to them. The allegations in the FIR are to be tested in the light of the fact that some of the villagers had preferred a complaint against working of the informant. The complaint was

enquired into. The informant was *prima facie* found to have indulged in misappropriation of the funds received for development of the village. She has, therefore, been issued a notice by the Dy. Chief Executive Officer of Zilla parishad, calling upon her to show cause as to why departmental action be not taken against her. It is only thereafter, the FIR has been lodged. Same suggests it to have been filed afterthought and just as a counter to the departmental action proposed against her at the instance of some of the villagers with whom the appellants herein are alleged to have conspired with. As such, the appellants have made out a strong *prima facie* for grant of relief.

12. The appeal, therefore, succeeds. The same is allowed. The order dated 18.11.2021 granting the appellants anticipatory bail, is made absolute.

[R.G. AVACHAT, J.]

KBP