

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

CRIMINAL APPEAL NO. 597 OF 2021

1. Raju Gangadhar Dhole	
2. Sanjay Gangadhar Dhole	
3. Subhash Gangadhar Dhole	
4. Vijay Gangadhar Dhole	
5. Gangadhar Shankar Dhole	... Appellants
Versus	
The State of Maharashtra and another	... Respondents

....

Mr. Nilesh S. Ghanekar, Advocate for appellants
Mr. R. B. Bagul, APP for respondent No.1-State
Mr. S. M. Kamble, Advocate for respondent No.2

....

CORAM : R. G. AVACHAT, J.

DATED : 05th JANUARY, 2022

PER COURT :-

. The appellants herein claimed to have apprehension of being arrested in connection with Crime No.0283 of 2021, registered with Phulambri Police Station, District Aurangabad for the offence punishable under Section 3(i)(r), 3(i)(s), 3(i)(f), 3(2)(g), 3(2) (va) of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 and Section 143, 147, 149, 504, 506 of Indian Penal Code. They, therefore, preferred application for anticipatory bail before the Special Court. Their application came to be rejected. Hence, the present appeal.

2. Heard. Perused the First Information Report (F.I.R.).
Gone through the documents relied on.

F.I.R. has been lodged on 29.10.2021 of the incident dated 11.10.2021. It has been alleged in the F.I.R. that the informant belonged to the Scheduled Caste. He owns a piece of land with a shop block standing thereon near S.T. bus stand at Phulambri. Due to covid pandemic, the informant downed the shutter of his shop and came to Aurangabad to earn his living. He would frequently visit Phulambri to look after his premises.

3. It so happened that on 11.10.2021, the informant went to Phulambri to find the appellants herein engaged in breaking open the shutter of his shop. He therefore inquired with them. The appellants thereupon rushed towards him and abused over his caste. The report of the incident therefore came to be lodged.

4. The learned APP and the learned Advocate representing the informant would submit that the allegations in the F.I.R. make out an offence under the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989. According to them, there are statements of the witnesses reinforcing allegations in the F.I.R.

5. It appears that the appellants and the informant has dispute over the property (shop premises). The alleged offence took place on 11.10.2021. F.I.R. however came to be lodged eighteen days thereafter.

6. Admittedly, the appellants have not been alleged to have committed any offence against person of the informant. As such, the informant had no reason to delay lodging of the F.I.R. regarding the alleged offence. No explanation has been offered in the F.I.R. regarding the delay. As such, it caused doubt over veracity over the allegations in the F.I.R. This Court, therefore, finds the appellants to be entitled for grant of anticipatory bail. Hence, the appeal is allowed in terms of following order.

- (i) The order dated 11.11.2021, passed by the learned Special Judge under the SC & ST (POA) Act, Aurangabad, in Bail Application No.1966 of 2021, is hereby set aside.
- (ii) In the event of arrest in connection with Crime No.0283 of 2021, registered with Phulambri Police Station, District Aurangabad for the offence

punishable under Section 3(i)(r), 3(i)(s), 3(i)(f), 3(2)(g), 3(2) (va) of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 and Section 143, 147, 149, 504, 506 of Indian Penal Code, the appellants be released on their executing P. R. Bond in the sum of Rs. 15,000/- (Rupees Fifteen Thousand) each with surety bond each in the like amount

- (iii) The appellants shall not tamper with the prosecution evidence and shall report to the concerned Police Station as and when required.

[R. G. AVACHAT, J.]

SMS