

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO.384 OF 2022

1. Ramgonda @ Ram Nigonda Patil,
Age 41 years, R/o.Ashtvinayak Colony,
Morewadi, Tal.Karveer, Dist.Kolhapur.
2. Dattatray Murlidhar Patil, Age 24 years,
R/o.Hanimanal, Tal.Gadhinglaj,
District Kolhapur.

Appellants

versus

1. The State of Maharashtra
2. Gadhinglaj Police Station.
3. Ashok Maruti Lokhande, Age 38 years,
R/o.Hanimanl, Tal.Gadhinglaj, Dist.Kolhapur.

Respondents

Mr.Datta H. Pawar with Ms.Sonali D. Pawar and Pratik Thakur,
Advocates for Appellants.

Mr.Arfan Sait, APP, for Respondent-State.

Mr.Pradeep Zende with Faiza Shaikh and Malhar Pawar i/by Nandu
Pawar, Advocate for Respondent no.3.

CORAM : PRAKASH D. NAIK, J.

DATE : 22nd August 2022

PC :

1. This is an application u/s.14A of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989. The appellants are aggrieved by order dated 30th March 2022 passed by learned Special Judge, Gadhinglaj, District Kolhapur, rejecting application for anticipatory bail. Appellants are apprehending arrest in C.R No.25 of 2022 registered with Gadhinglaj Police Station for offences under Sections 452, 509, 323, 504 r/w 34 of IP and Sections 6, 3(1)(s), 3(1)(w)(i), 3(1)(w)(ii), 3(2)(va) of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act (‘the Act’ for short).

2. The complainant has alleged that on 9th January 2022 at about 9.50 p.m, appellants entered into the house of complainant and abused him since he helped Sagar Kurne, Ramesh Kamble, Shivmurthi Patil for release on bail. The complainant was abused on the basis of his caste. Accused also pushed the wife of complainant. At the time of incident, Mahadev Kumbhar, Balkrishna Patil, Shivanand Patil, Balasaheb Kamble, Sudhir Kamble, Rahul Kamble were present. They approached police on 1st February 2022. The FIR was registered.

3. Learned advocate for appellants submitted that there is delay in registering the FIR. The brother of accused no.1 had filed complaint against Rajendra Chavan and others. The FIR has been registered out of vendetta. There are no independent witnesses. The persons referred by the first informant are interested witnesses. The brother of accused no.1 had filed complaint against witnesses. Prior to registration of FIR written complaint was forwarded by informant in which there is reference of only one witness. The complaint does not bear the date of lodging. The offence under the Act is not made out. Appellant no.1 is working with Kolhapur Zilla Parishad. Appellant no.2 is studying in A.D.Shinde college of Engineering, Gadhinglaj and student of third year Mechanical Engineering.

4. Learned APP and learned advocate for respondent no.3 submitted that there is no delay in lodging the FIR. Written complaint was forwarded to the authorities immediately after the incident. Statements of witnesses are recorded. In view of bar u/s.18 of the Act, appellants are not entitled for anticipatory bail.

5. It seems that dispute has its genesis in village rivalry. There is

delay of about 20 days in reporting the matter to the police. Appellants were granted interim protection vide order dated 20th April 2022. The alleged incident is not corroborated by independent witnesses. The witnesses referred to by the complainant has animosity against accused. They are associates of complainant. The written complaint addressed to Police Inspector, Gadhinglaj Police Station relied upon by Respondent no.3 does not refer to the date of receipt of said complaint by police. It cannot be said that alleged abuses were hurled within public view. Considering the aforesaid circumstances, bar u/s.18 of the Act would not be attracted. Appellants are entitled for anticipatory bail.

ORDER

- (i) Criminal Appeal No.384 of 2022 is allowed;
- (ii) Order dated 30th March 2022 passed by learned Sessions Judge, Gadhinglaj, Kolhapur, is set aside;
- (iii) Interim order dated 29th April 2022 is confirmed;
- (iv) In the event of arrest of the appellant in C.R No.25 of 2022 registered with Gadhinglaj Police Station, the appellant be released on bail on executing PR bond in the sum of Rs.20,000/- with one or more sureties in the like amount;
- (v) The appellants shall appear before the Investigating Officer as and when called for;
- (vi) Appeal is disposed off.

(PRAKASH D. NAIK, J.)