

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

CRIMINAL APPEAL NO. 433 OF 2020

Akash Shahaji Patil

..Appellant.

Versus

The State of Maharashtra & Anr.

..Respondents

Ms. Divyashree Shanbhag i/b. Jaydeep D. Mane for Appellant.

Smt. M. R. Tidke, APP for State/Respondent No.1.

Mr. Siddharth S. Deshpande for Respondent No.2.

CORAM : SARANG V. KOTWAL, J.

DATE : 7th DECEMBER 2022

PC :

1. The Appellant has challenged the order dated 13/10/2020 passed in Criminal Miscellaneous Application No.631 of 2020. In effect, the Appellant is seeking anticipatory bail in connection with C.R.No.419 of 2020 registered at Mangalwedha Police station for the offences punishable under sections, 354, 323, 504, 506, 143, 147 and 149 of I.P.C. and under sections 3(1)(r), 3(1)(s), 3(1)(w)(i) and 3(1)(w)(ii) of the Scheduled Castes and Schedules Tribes (Prevention of Atrocities) Act, 1989.

2. Heard Ms. Divyashree Shanbhag, learned counsel for the

Appellant, Smt. Tidke, learned APP for the State and Shri. Siddharth Deshpande, learned counsel for the Respondent No.2.

3. The F.I.R. is lodged by the Respondent No.2 on 04/08/2020. He has stated that, their family had a pet cat. It was missing and therefore, they were searching for it. On 02/08/2020, the Respondent No.2's son informed that one Kailas Satpute had given that cat to a stranger. The respondent No.2's family kept on inquiring about it. In that connection they also made inquiries with Bandu Patil, Ravi Patil, Pratik Patil, present applicant and others who were sitting near water tank at 9.30p.m. on that day. Bandu Patil got annoyed and started quarreling. At about 10.30p.m. again the informant was passing from that area. It is alleged that, at that time, the appellant and Bandu Patil called the informant near them. There are specific allegations that Bandu Patil uttered derogatory remarks with reference to Respondent No.2's caste and then slapped him. The F.I.R. mentions that all of them assaulted him with kicks and fist blows. The other persons namely Sagar More, Popat Anpat, Ravi Patil and Pratik Patil also assaulted the first informant/respondent No.2 with kicks and fist blows. The

Respondent No.2's wife came there to intervene. There are allegations that the accused Bandu Patil outraged her modesty by pulling her clothes by uttering derogatory words. On this basis the F.I.R. is lodged. Though the incident had occurred on 02/08/2020, the F.I.R. was lodged on 04/08/2020. The Respondent No.2 has explained that in the night it was not possible to go to the police station and after consultation with his relatives, he lodged the F.I.R.

4. Learned counsel for the Appellant submitted that the allegations are not true. The main role is not attributed to the present appellant. No offence under the Atrocities Act is made out against the appellant. He deserves grant of anticipatory bail. The Appellant is already protected by this court (Coram: Revati Mohite Dere, J.) vide order dated 26/10/2020. More than two years have passed since then.

5. Learned counsel for the Respondent No.2 relies on the averments in the F.I.R. According to him, the assault was committed by all the accused including the present Appellant. It is

mentioned so in the F.I.R. Therefore, he submitted that the offence under the Atrocities Act is made out and, therefore, anticipatory bail cannot be granted to him.

6. Learned APP opposed this Appeal on the basis of investigation papers. She submitted that, there were eye witnesses to the incident and there is injury certificate of the Respondent No.2.

7. I have considered these submissions. As far as injury certificate is concerned, it shows that the Respondent No.2 had suffered blunt trauma on his left ear and contusion near that region. These injuries are specifically attributed to the slap which was given by the main accused Bandu Patil. As far as assault by kicks and fist blows to the Respondent No.2 is concerned, though, the first informant has made a general statement involving the Appellant, there are statements of the eye witnesses Kailas Satpute, Raviraj Randive and Saurabh Randive. They have not attributed this particular act to the present appellant. Even the statement of the Respondent No.2's wife has made a general

statement and allegations of outraging her modesty are attributed to the main accused Bandu Patil. Thus, sufficient doubt is created about the appellant's involvement attracting provisions of Atrocities Act. Therefore, the appellant can be protected by an order of anticipatory bail. It is made clear that, all these observations are made only for passing of this order. The trial Court shall not be influenced by any of these observations at proper stage of trial.

8. Hence, the following order:

O R D E R

i) The Appeal is allowed.

ii) In the event of his arrest in connection with C.R.No.419 of 2020 registered at Mangalwedha Police station, the applicant is directed to be released on bail on his furnishing P. R. bond in the sum of Rs.30,000/- (Rupees Thirty Thousand Only) with one or two sureties in the like amount.

iii) The Appeal is disposed of.

(SARANG V. KOTWAL, J.)