

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

CRIMINAL APPEAL NO.446 OF 2020

1. Shanaz Ahmad Shaikh, &
2. Jubeida Gani Shaikh Appellants
Versus
The State of Maharashtra & Anr. Respondents

Mr. Ashraf Ahmed Shaikh, Advocate for the Appellants.
Smt. M.R. Tidke, APP for the Respondent No.1-State.
Mr. Ramdas Hake Patil, Advocate for Respondent No.2.

CORAM : SARANG V. KOTWAL, J.

DATE : 15th NOVEMBER, 2022

P.C. :

1. The appellants have challenged the order passed by the Additional Sessions Judge-3, Solapur dated 7.11.2020 passed in Criminal Bail Application No.1232/2020. In effect, they are praying for anticipatory bail in connection with C.R. No.635/2020 dated 10.10.2020 registered at Solapur police station under Sections 3(1)(r),(s), 3(2)(va) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities)

Act, 1989 ('Atrocities Act') and under Sections 324, 143, 147, 149, 504, 506 of IPC.

2. Heard Mr. Ashraf Ahmed Shaikh, learned counsel for the appellants, Smt. M.R. Tidke, learned APP for the respondent No.1-State and Mr. Ramdas Hake Patil, learned counsel for the respondent No.2.

3. The FIR is lodged by the respondent No.2. She has stated that there was a land dispute in respect of Gat No.163/2 situated in Mardi. The respondent No.2's husband had filed a civil suit in a Court at Solapur. It was pending. On 10.10.2020 at about 11.30 a.m., the respondent No.2 along with Madhuri Jadhav and Bapu Pawar was proceeding towards that agricultural field. They saw Shanaz (appellant No.1), one unknown person and three unknown ladies coming from the opposite side. It is mentioned in the FIR that they started beating the respondent No.2's group. Namdeo Jadhav, Madhuri Jadhav and Bapu Pawar tried to intervene, but, they were assaulted by stone. In the incident Bapu Pawar and Madhuri Jadhav suffered injuries on the

head. It is alleged that the respondent No.2 was abused with reference to her caste and then all of them went away. On this basis, the FIR is lodged.

4. Learned counsel for the appellants submitted that the allegations are completely false and in fact the appellants themselves have suffered serious injuries in the same incident. He relied on the FIR lodged by the appellant No.1 on that very day vide C.R. No.636/2020 at the same Solapur police station under Section 336, 325, 441, 354, 143, 147, 148, 149, 504 and 506 of IPC. The first appellant has described the incident in which she and her sister i.e. appellant No.2 were assaulted with knife and stone. Both of them suffered serious injuries. Namdeo Jadhav also torn her blouse.

5. Learned counsel for the appellants, therefore, submitted that considering the counter case, it is clear that the incident is not correctly described in the FIR lodged by the respondent No.2.

6. He further submitted that both the appellants are ladies and are senior citizens. No specific role of commission of offence under the Atrocities Act is attributed to them.

7. Learned APP as well as learned counsel for the respondent No.2 opposed this appeal. They submitted that in the FIR it is clearly mentioned that the respondent No.2 was abused with reference to her caste and, therefore, the offence under the Atrocities Act is made out. They submitted that it cannot be disputed that there was a civil suit initiated by the respondent No.2's husband and, therefore, the appellants were holding grudge against the respondent No.2, which has resulted in the incident and registration of FIR against the appellants. They submitted that in such a situation, anticipatory bail should not be granted to them.

8. I have considered these submissions. The FIR lodged by the respondent No.2 does not make a specific allegation against either of these appellants attributing them the abuses hurled at the respondent No.2. Even no specific

role is attributed in respect of the assault on others. Therefore it is not possible to observe, at this stage at least, that offence under the Atrocities Act is attracted against the appellants.

9. This FIR will have to be tested against the allegations made in the FIR lodged by the appellant No.1 where the same incident is described in a different manner.

10. The appellants had suffered injuries whereas the appellant No.2 has suffered injuries by knife. Thus, there is sufficient doubt created about the truthfulness of both versions. In that view, I do not feel it safe to rely on the FIR lodged by the respondent No.2 to deny the relief of anticipatory bail to the appellants. Both the appellants are ladies and are senior citizens. It is also an added circumstance in their favour. The offence is old and more than two years have passed in between. Therefore, both of them can be protected by an order of anticipatory bail.

11. Hence, the following order :

:: O R D E R ::

- i. The appeal is allowed.
- ii. In the event of their arrest in connection with C.R. No.635/2020 registered at Solapur police station, the appellants are directed to be released on bail on their executing P.R. bond in the sum of Rs.30,000/- each (Rupees Thirty Thousand Only) with one or two sureties each in the like amount.
- iii. Criminal Appeal is disposed of accordingly.

(SARANG V. KOTWAL, J.)

Deshmane (PS)