

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

CRIMINAL APPEAL NO.828 OF 2022

Anantrao Hanumant Londhe & Anr. Appellants

versus

State of Maharashtra & Anr. Respondents

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- Mr. Jaydeep D. Mane, Advocate for Appellants.
- Mr. S. R. Agarkar, APP for the State/Respondent No.1.
- Mr. Harshad Inamdar, Advocate for Respondent No.2.

CORAM : SARANG V. KOTWAL, J.

DATE : 16th NOVEMBER, 2022

P.C. :

1. The Appellants have challenged the order dated 06/08/2022 passed by Special Judge, Barshi, in Criminal Appeal No.558 of 2022. In effect the Appellants are seeking anticipatory bail in connection with C.R.No.282 of 2022 registered at Kurduwadi police station on 14/06/2022 u/s 427, 504, 506 r/w 34 of the Indian Penal Code and u/s 3(1)(r), 3(1)(s) and 3(2) (va) The Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 (for short 'Atrocities Act').

2. Heard Mr. Jaydeep D. Mane, learned counsel for the Appellants, Mr. Harshad Inamdar, learned counsel for Respondent No.2. and Mr. S. R. Agarkar, learned APP for the State.

3. The FIR is lodged by the Respondent No.2. It is mentioned therein that he had agreed to purchase the land from Shivdas Barkade situated at Gat No.630/2 admeasuring 20 Guntha, at village Pimpalner, Taluka Madha. According to the Respondent No.2 he had paid Rs.3,50,000/- as earnest money. It is his case that he had got the possession. It was decided that the transaction would be completed during 5 months. In December 2021 the first informant put up his board on that land and went to Pune for some work. He returned after 8 days and found that the board was broken and thrown away. Both the Appellants told him that they had removed the board. It is alleged that the Appellant No.1 abused him with reference

to caste. Even the Appellant No.2 threatened him. On this basis the FIR is lodged.

4. Learned counsel for the Appellants submitted that the incident allegedly had taken place in December 2021 and the FIR is lodged much belatedly on 14/06/2022. In between the Respondent No.2 had lodged an NC complaint vide NC No.11/2022 on 04/01/2022 in respect of the same incident dated 27/12/2021. There is a reference to removing of board, abuses and threat. However, there is no specific reference to abuses with reference to caste. Learned counsel further submitted that the Respondent No.2 had not completed the transaction. The cheques given by him to the original owner were dishonoured. He relied on the notice sent to the Respondent No.2 on behalf of Shivdas Barkade dated 27/11/2017, which shows that the transaction was not completed. Subsequently, the Appellant No.1 purchased the same land from Shivdas Barkade on 02/02/2022. He submitted that the Respondent No.2 was not the owner of the land and

therefore in this background the offences under the Atrocities Act are not attracted against the Appellants. The incident itself is false and the Respondent No.2 has lodged false FIR to interfere with the Appellant No.1's right and peaceful possession of the land.

5. Learned counsel for the Respondent No.2 submitted that the Respondent No.2 was in possession of the land and therefore dispossessing him wrongly would attract the provisions of the Atrocities Act.
6. Learned APP submitted the investigation papers for perusal of the Court. The investigation papers contained statement of the original owner Shivdas Barkade which supports the case of the Appellants.
7. I have considered these submissions. It does appear that the Respondent No.2 is interested in the same land. He had lodged an NC complaint regarding the incident dated

27/12/2021, but there was no reference to the abuses with reference to caste. The FIR is lodged much belatedly after 6 months and no acceptable explanation is offered by him. Therefore there is substance in the submissions of the learned counsel for the Appellants that it is a false FIR and it is filed with the intention to interfere with the ownership and possession of the land sold by Shivdas Barkade. In this background it is difficult to observe that the contents of the FIR are true at this stage. Therefore the Appellants deserve protection of anticipatory bail.

8. Hence, the following order :

ORDER

- (i) The application is allowed.
- (ii) In the event of their arrest in connection with C.R.No.282 of 2022 registered at Kurduwadi police station, the Appellants are directed to be released on bail on their furnishing PR. bond in

the sum of Rs.30,000/- (Rupees Thirty Thousand only) each, with one or two sureties each, in the like amount.

- (iii) The Appellants shall co-operate with the investigation.
- (iv) Appeal stands disposed of accordingly.

(SARANG V. KOTWAL, J.)