

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

CRIMINAL APPEAL NO.3 OF 2022

Prabha Manish Chaturvedi Appellant
versus
State of Maharashtra Respondent

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- Mr. Pramod Pandey, Advocate for Appellant.
- Smt. M. R. Tidke, APP for the State/Respondent No.1.
- Ms. Devyani H. Kulkarni (Appointed Advocate) for Respondent No.2.

CORAM : SARANG V. KOTWAL, J.
DATE : 17th OCTOBER, 2022

P.C. :

1. This is an Appeal challenging the order dated 09/11/2021 passed by Additional Sessions Judge, Virar, Palghar, thereby rejecting the Appellant's prayer for anticipatory bail.

2. The Appellant is seeking anticipatory bail in connection with C.R.No.928/2021 registered with Virar police station u/s 3(1)(r), 3(1)(s) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989.

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3. Heard Mr. Pramod Pandey, learned counsel for the Appellant, Ms. Devyani H. Kulkarni , learned counsel for the Respondent No.2 and Smt. M. R. Tidke learned APP for the State.
4. The FIR is lodged by the first informant. The FIR is in respect of the incident dated 03/07/2021. The FIR itself is registered on 13/10/2021. The first informant has stated in the FIR that he was residing at Pimpalwadi Manvel Pada, Virar (E), Palghar, in NG Enclave CHS Ltd. with his family. He was belonging to scheduled caste. On 03/07/2021 at about 10.30 a.m. the Appellant who was the secretary of the society, along with the Chairman and other committee members came in his courtyard and they were overseeing cleaning of the sewage chamber. According to the first informant, he told the Appellant that he had already cleaned it and therefore there was no further need to clean it. It is alleged that at that time the Appellant passed some derogatory comments with reference to the informant's caste. At that time, the informant's family and the workers cleaning the chamber were present. On this basis the FIR is filed.

5. Learned counsel for the Appellant submitted that the FIR is false. On that very day there was a quarrel and the Appellant had filed her NC complaint against the first informant herein. That NC complaint was registered vide NC No.2559/2021 at the same police station. It was registered immediately. He submitted that the first informant is harassing the committee members and is not even paying the maintenance amount. The false allegations are made out of these disputes. He submitted that the Applicant is a lady. She is a teacher and she would suffer irreparable loss if she is arrested on the basis of these false allegations. The complaint is filed with malafide intention. There is delay of more than three months in lodging the FIR.

6. Learned counsel for the Respondent No.2 submitted that the first informant had immediately approached the same police station on 03/07/2021 and had given his grievance in writing. He had also sent complaint letters to the Hon'ble Ministers of Government of Maharashtra. She submitted that

there is no delay in making the grievance. She also submitted that the offence under Atrocities Act is made out in the FIR and therefore anticipatory bail cannot be granted to the Appellant.

7. Learned APP produced the investigation papers before the Court.

8. I have considered these submissions and I have perused the investigation papers. Learned counsel for Respondent No.2 had submitted that he had approached the police station on 03/07/2021. However in that complaint only the subject matter mentions about the abuses having been hurled with reference to his caste. However, in that subject matter there are no allegations against the present Appellant specifically. The subject matter is general in nature. In the body of that complaint there is absolutely no reference that the Appellant had in any manner abused him with reference to his caste. There are no specific allegations even otherwise against the present Appellant. In the subsequent complaint made to the Hon'ble Ministers, there is some reference to the allegations regarding abuses with

reference to his caste, but those complaints are dated 13/07/2021. After that there was no follow up action taken by the informant and the FIR was ultimately lodged on 13/10/2021.

9. The investigation papers show that only the sons and wife of the informant have supported the informant's case. The independent witnesses i.e. the workers Jitendra Patil and Rahul Patil has not supported the informant's case, though the informant has stated that they were present during the incident. These two witnesses have stated that once the quarrel started, they left the place and therefore they did not know what had happened afterwards.

10. Apart from these two witnesses there are consistent statements of Prakash, Sagar Parab, Narayanan Nambiyar, Ashok Pagdhare, Rajeshwari Pagdhare, Sanket Patil and Sandip Patil. All of them have stated in favour of the Appellant. According to them they were present at the time of the incident and the Appellant had not uttered any words derogatory with reference

to the informant's caste. Thus there is sufficient material at this stage to indicate that it could be a case of false implication. In this view of the matter, the Appellant who is a lady, deserves protection of anticipatory bail. All these observations are made only for the purpose of deciding this Appeal.

11. Hence, the following order :

ORDER

- (i) Appeal is allowed.
- (ii) In the event of her arrest in connection with C.R.No.928/2021 registered with Virar police station, the Appellant is directed to be released on bail on her 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 Appellant shall co-operate with the investigation.
- (iv) Appeal is disposed of accordingly.

(SARANG V. KOTWAL, J.)