

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

**CRIMINAL APPEAL NO.92 OF 2022**

1. Nana Bajarang Pawar, &  
2. Ganesh Sampat Kale ..... Appellants  
Versus  
The State of Maharashtra  
and another .... Respondents

-----

Mr. Ganesh Bhujbal, Advocate for the Appellants.  
Mr. Yogesh Y. Dabke, APP for Respondent No.1-State.  
Mr. Vaibhav R. Gaikwad, Advocate a/w. Pranav Mane, for  
Respondent No.2.

-----

**CORAM :SARANG V. KOTWAL, J.**

**DATE : 18<sup>th</sup> AUGUST, 2022**

**P.C. :**

1. This is an appeal against the order dated 17.1.2022 passed by the Special Judge under SC.ST Act, Pune in Criminal Bail Application No.11/2022. The appellants had prayed for anticipatory bail. Their prayer is the same here in this appeal. They are seeking anticipatory bail in connection with C.R. No.959/2021 registered with

Shirur police station, Pune for commission of offence punishable under Sections 452, 354, 504, 506 read with 34 of IPC and under Section 3(1)(r), 3(1)(s), 3(1)(w)(i) & 3(1)(w)(ii) of the Scheduled Castes and Scheduled Tribes Prevention of Atrocities Act, 1959 (for short, 'Atrocities Act').

2. Heard Shri Ganesh Bhujbal, learned counsel for the appellants, Shri Yogesh Dabke, learned APP for respondent No.1-State and Shri Vaibhav Gaikwad, learned counsel for respondent No.2.

3. The FIR is lodged by the first informant i.e. respondent No.2. She has stated that she was residing at Andhalgaon Phata, Taluka-Shirur, District-Pune along with her husband, father-in-law, brother-in-law and his wife. On 29.11.2021, all the other family members had gone out of the house for various reasons. The first informant was in the house with her one year old son. At about 2.00 p.m., appellant No.1 entered her house and outraged her modesty. He pressed her breasts. Therefore, the first informant got scared and she pushed him. At that time, appellant No.1

abused her with reference to her caste and threatened to cause harm to her son. He again tried to molest her. She somehow got herself rescued and went out of the house. She went to her husband's shop. She told him about the incident. Since the first informant and her husband were under fear, they did not lodge FIR. On 3.12.2021, the informant had gone to her shop, at that time both the appellants came there. Appellant No.1 threatened her. It is alleged that appellant No.2 abused her with reference to her caste and then both of them left. It is her case that her entire family was under fear of the appellants but since they were constantly harassed ultimately she lodged her FIR. The FIR was lodged on 11.12.2021.

4. Learned counsel for the appellant submitted that they are falsely implicated. Appellant No.1 had lodged his own NC complaint on 7.12.2021 against the informant's husband and brother-in-law. He submitted that the said NC was registered vide N.C. No.1697/2021 under Sections 323, 504, 506 of IPC. This NC was lodged on 7.12.2021.

Subsequently on 13.12.2021 based on the same allegations in the NC, an FIR vide C.R. No.962/2021 was registered at Shirur police station, Pune under Sections 323, 324, 504, 506 read with 34 of IPC. It was mentioned in the FIR that on 30.11.2021, the informant in the present case and her family assaulted him and had threatened to implicate him in a false case.

5. Learned counsel for the appellants submitted that the NC was lodged by appellant No.1 on 7.12.2021 and thereafter as a counter-blast, the present FIR is lodged against both the appellants on 11.12.2021. There is no explanation offered by the first informant as to why it is lodged belatedly. Thus according to him it is clear that the appellants have been implicated falsely.

6. He further submitted that in any case no offence is made out against appellant No.2 as the ingredients of Sections 3(1)(r) and 3(1)(s) of the Atrocities Act are not established in the FIR.

7. Learned counsel for respondent No.2 as well as learned APP opposed this appeal. They submitted that the NC itself was lodged because there was some incident which is referred to in the NC. That incident was of holding the first informant's hand by the appellant No.1. This NC itself suggests that the allegations in the FIR are true. They further submitted that the appellant No.1's FIR was lodged subsequent to the FIR lodged by the respondent No.2 against the appellants. Learned counsel for respondent No.2, therefore, submitted that no relief should be granted to the appellants.

8. I have considered these submissions. The NC lodged by the appellant No.1 itself makes a reference to the allegations made immediately by the respondent No.2's husband of outraging her modesty by appellant No.1. Therefore, to that extent the NC lodged by the appellant No.1 itself lends credence to the allegations of the respondent No.2 made against appellant No.1.

9. Appellant No.1's FIR is also subsequent to the

FIR lodged by respondent No.2. At this stage, therefore, sufficient case is made out against the appellant No.1 and no relief can be granted to him.

10. As far as the appellant No.2 is concerned, he is not involved in the incident dated 29.11.2021 even as per the allegations of the respondent No.2. His role is described only about the incident dated 3.12.2021. There again there is no reference to any other person having been present to witness the incident. Therefore, the ingredients of Sections 3(1)(r) and 3(1)(s) of the Atrocities Act are not made out. In this view of the matter, the appellant No.2 can be protected.

11. Hence, the following order :

**:: O R D E R ::**

- i. The appeal in respect of appellant No.1 Nana Bajarang Pawar is dismissed. His prayer for anticipatory bail in connection with C.R. No.959/2021 registered with Shirur police station, Pune is, therefore, rejected.

- ii. The appeal is allowed only in respect of appellant No.2 Ganesh Sampat Kale. In the event of arrest in connection with C.R. No.959/2021 registered with Shirur police station, Pune appellant No.2 Ganesh Sampat Kale is directed to be released on bail on his executing a PR bond in the sum of Rs.30,000/- (Rupees Thirty Thousand Only) with one or two sureties in the like amount.
- iii. Criminal Appeal is disposed of accordingly.

**(SARANG V. KOTWAL, J.)**

PRADIPKUMAR  
PRAKASHRAO  
DESHMANE

Digitally signed by  
PRADIPKUMAR  
PRAKASHRAO  
DESHMANE  
Date: 2022.08.20 10:14:14  
+0530

Deshmane (PS)