

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO.166 OF 2019

Santosh Sampatrao Pote

Appellant

versus

Aditya Sanjay Gavhane and others

Respondents

Mr.Siddhesh Borkar i/by Mr.Sujay H. Gangal, Advocate for appellant.
Mr.Ashish Vernekar i/by Mr.Satyavrat Joshi, Advocate for respondent
nos.1 and 2.

Mr.S.R.Agarkar, APP, for State.

Mr.Sandeep Pramod Yadav, API, Shirur Police Station, present.

CORAM : PRAKASH D. NAIK, J.

DATE : 26th August 2022

PC :

1. This is an appeal for cancellation of anticipatory bail granted for offences under Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act.

2. Anticipatory bail was granted to respondent nos.1 and 2 vide order dated 3rd January 2018.

3. Learned advocate for appellant submitted that while adjudicating the application for anticipatory bail before Sessions Court, the respondents had claimed that the dispute is of civil nature and that they have relied upon false documents in the form of affidavit which are at page nos.41 and 42 and one voucher. Learned Sessions Judge has allowed the application for anticipatory bail on the ground that dispute is of civil nature. The complainant had opposed the application by pointing out that documents relied upon

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by respondents are false and fabricated. However, Sessions Court has not dealt with the said issue and allowed the application for anticipatory bail.

4. Learned APP submits that pursuant to the grant of anticipatory bail, the charge sheet has been filed against accused in the year 2019. The statement of complainant was recorded on 24th January 2019 which refers to the objections of complainant with regards to documents relied upon respondents-accused.

5. Pursuant to filing of charge sheet the case is pending before competent Court. The application for anticipatory bail was allowed by Sessions Court vide order dated 3rd January 2019. From the tenor of the order dated 3rd January 2019 it is apparent that application was allowed on the ground that prima facie there appears to be civil dispute between appellant and the informant and custodial interrogation is not necessary. It is noted that investigation has been completed and charge sheet is filed. The statement of complainant referred to hereinabove refers to the objection to the documents relied upon by respondents-accused. The issue relating to fabrication of documents will have to be decided during trial. Since charge sheet is filed, all the issues relating to the objections raised by the complainant relating to the documents which are subject to statement dated 24th January 2019 are kept open. In these circumstances anticipatory bail granted to respondents cannot be cancelled. The appeal stands disposed of.

(PRAKASH D. NAIK, J.)