

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

CRIMINAL APPEAL NO.187 OF 2022

Dhanaji Waman Gaikwad Appellant

versus

State of Maharashtra & Anr. Respondents

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- Mr. Jaydeep D. Mane, Advocate for Appellant.
- Mr. S. R. Agarkar, APP for the State/Respondent No.1.

CORAM : SARANG V. KOTWAL, J.
DATE : 07th DECEMBER, 2022

P.C. :

1. The Appellant has challenged the order dated 20/11/2021 passed by Additional Sessions Judge, Solapur, in Criminal Bail Application No.1740/2021. In effect, the Appellant is seeking anticipatory bail in connection with C.R.No.1053/2021 registered at Mohol police station on 29/11/2021 u/s 327, 354, 354-A, 323, 504, 506, 143, 147, 148, 149 of the Indian Penal Code and u/s 3(1)(r)(s) and 3 (2), 3(1)(w)(i), 3(2)(va) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 (for short 'Atrocities Act').

2. Heard Mr. Jaydeep D. Mane, learned counsel for the Appellant and Mr. S. R. Agarkar, learned APP for the State.
3. The FIR is lodged by the Respondent No.2. The office noting shows that the Respondent No.2 is duly served. Therefore I have heard the parties.
4. The FIR mentions that she was belonging to a schedule caste. She was residing with her family. On 28/11/2021 when they were sitting in front of their house, the Appellant, his two sons and about 20 other persons came there. The Appellant was having a wire. One of them was having a hockey stick. Another accused was having a pipe. It is alleged that the Appellant asked them to leave the place where they were sitting. The informant refused to go from there. It is alleged that the Appellant and his son Akash uttered derogatory words with reference to the informant's caste and started assaulting her. It is alleged that the Appellant gave blows with a wire. The informant's daughter,

husband and daughter-in-law were also assaulted. It is alleged that the offenders outraged modesty of the informant, her daughter and daughter-in-law. After some time, the Appellant brought a JCB machine and dug a pit in front of their house. The articles from her house were damaged. On this basis, the FIR is lodged.

5. Learned counsel for the Appellant submitted that incident is not true. The informant and her family had caused nuisance in the village. The Appellant himself had lodged FIR vide C.R.No.1052/2021 on that very day at the same police station i.e. Mohol police station u/s 327, 143, 147, 149, 323, 504, 506 of the Indian Penal Code, against the Respondent No.2 and her family. That FIR mention that the Respondent No.2's family had used JCB machine and dug a pit at that place. He submitted that the Respondent No.2's entire family is absconding and there are many cases pending against them. He submitted that the Appellant is falsely implicated.

6. Learned APP relied on the investigation papers, which show that the Respondent No.2 had suffered scratches and blunt trauma. Her son Vishal and daughter had suffered blunt traumas. The witnesses are from the Respondent No.2's family.
7. I have considered these submissions. The injuries suffered by the Respondent No.2 are in nature of scratches with nails and there is one blunt trauma. Her allegations are that the Appellant has assaulted her with wire. However there is no injury which is caused by wire. There are absolutely minor injuries. Therefore it seems that the allegations in the FIR are exaggerated. Learned APP accepted that the informant's family is absconding and is not available, in spite of due search carried out by the investigating agency.
8. Considering these submissions, it does appear that there is force in the submissions of learned counsel for the Appellant and therefore reasonable doubt is created against the story of the Respondent No.2. In this view of the matter, the Appellant can be protected by an order of anticipatory bail.

9. Hence, the following order :

ORDER

- (i) The Appeal is allowed.
- (ii) In the event of his arrest in connection with C.R.No.1053/2021, registered with Mohol police station, the Appellant is directed to be released on bail on his 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) Appeal stands disposed of accordingly.

(SARANG V. KOTWAL, J.)