

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO.334 OF 2022

Vaibav Ashokrao Pawar and others	Appellants
versus	
The State of Maharashtra and another	Respondents

Mr.Umesh H.Pawar, Advocate for appellant.
Ms.Chaitrali Deshmukh, Advocate for respondent no.2.
Mr.A.R.Patil, APP, for State.

CORAM : PRAKASH D. NAIK, J.

DATE : 22nd September 2022

PC :

1. This is an appeal under Section 14A of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act. The appellants are apprehending arrest in FIR No.174 of 2022 registered with Islampur Police Station for offence u/s.392 r/w 34 of Indian Penal Code and Sections 3(1)(r) and 3(1)(s) of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act ('Atrocities Act').

2. The FIR was lodged on 21st March 2022 alleging that complainant and others were called in the bank. They were threatened. The keys of Aactiva Scooter was taken away. The first incident had occurred on 22nd January 2022. The second incident dated 19th February 2022 relates to abuses on caste wherein appellant no.1 had allegedly stated that loan facility should not be given to persons belonging to scheduled caste. The FIR was registered on 21st March 2022.

3. The appellants had preferred application for anticipatory bail before the Court of Session which was rejected by order dated 30th March 2022.

4. Learned advocate for appellants submitted that complaint is false. The allegations are concocted. The appellant no.1 is chairman of the bank and appellant nos.2 and 3 are employees. The complainant is co-borrower of the loan. There is delay in lodging the FIR. Prior to registration of FIR legal notice was forwarded by complainant through his advocate, which does not refer to any abuses on caste. There are no independent witnesses supporting version of complainant. The incident had not occurred within public view. The appellants have co-operated with investigating agency. Custodial interrogation is not necessary. Section 392 is not attracted in present case.

5. Learned APP has submitted that the FIR refers to the abuses on caste. The incident had occurred in the presence of Ganesh Gaikwad. There are two instances. The statement of witness Suvarna Chikurde, Rani Pawar and Bablu Mulla were recorded during investigation. They supported the incident. Learned advocate for respondent no.2 submitted that the FIR refers to the abused on caste. There is bar u/s.18 of Atrocities Act. The appellants are not entitled for anticipatory bail. The call records with regards to the calls made to the complainant on the date of incident should be called upon. That supports the prosecution case. No case for grant of anticipatory bail is made out.

6. Perused the FIR. It is not in dispute that loan was obtained by one of the witness and the complainant is the joint borrower of loan. The FIR refers to two incidents. The first incident had occurred on 21st January 2022 whereas second incident is of dated 19th February 2022. The second incident allegedly refers to abuses on caste. It appears that the incident had occurred in the presence of one Ganesh Gaikwad, however, his statement is not recorded. The other witnesses are in connected with the incident dated 22nd January 2022. Thus, there are no statement of independent persons to support version of complainant in support of incident dated 19th February 2022. There is no reason to lodge the FIR on 19th March 2022, although the incidents had occurred on 22nd January 2022 and 19th February 2022. Legal notice sent by complainant after the alleged incidents of 22nd January 2022 and 19th February 2022 does not refer to the incident of abuses on the basis of caste. The bar under Section 18 of the Act would not disentitle the applicants relief under Section 438 of Cr.PC, in the light of facts as stated above.

7. Considering the circumstances, case for grant of anticipatory bail is made out.

ORDER

- (i) Criminal Appeal No.334 of 2022 is allowed and disposed off;
- (ii) Impugned order dated 30th March 2022 passed by Special Judge (Atrocity Act), Islampur in Criminal Bail Misc.Application No.52 of 2022, below Exhibit-1 is quashed and set aside;
- (iii) The interim order dated 1st April 2022 passed by this Court is confirmed;
- (iv) In the event of arrest of appellants in connection with CR No.174 of 2022 registered with Islampur Police Station, Sangli, the

appellants be released on bail on executing PR bond in the sum of Rs.15,000/- each with one or more sureties in the like amount;

(v) The appellants shall appear before Investigating Officer as and when called for till filing of charge sheet.

(PRAKASH D. NAIK, J.)

MST