

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

CRIMINAL APPEAL NO. 377 OF 2022

Amolsingh Rameshsingh Pardeshi & Ors.

..Appellants

Versus

The State of Maharashtra & Anr.

..Respondents

Mr. Satyajeet P. Dighe for Appellants.

Mr. S. R. Agarkar, APP for State/Respondent No.1.

Ms. Saili N. Dhuru for Respondent No.2.

CORAM : SARANG V. KOTWAL, J.

DATE : 18th OCTOBER 2022

PC :

1. The Appellants have challenged the order dated 07/04/2022 passed by learned Additional Sessions Judge, Nashik in Criminal Bail Application No.409 of 2022 thereby rejecting the Appellants' application for anticipatory bail.

2. The Appellants are apprehending their arrest in connection with C.R.No. II 42 of 2022 registered at Indira Nagar police station, Nashik for commission of offences punishable under sections 504 and 506 r/w. 34 of I.P.C. and under sections 3(1)(s), 3(1)(r) and 3(2)(va) of the Scheduled Caste and Scheduled Tribe

(Prevention of Atrocities) Act, 1989 (hereinafter referred to as 'SC & ST Act').

3. Heard Shri. Satyajeet Dighe, learned counsel for the Appellants, Shri. Agarkar, learned APP for State/Respondent No.1 and Ms. Saili Dhuru, learned counsel for the Respondent No.2.

4. The F.I.R. is lodged by the Respondent No.2 on 23/03/2022. She has stated that the Appellants and the first informant's family resided in the same co-operative housing society at Indira Nagar. The informant had purchased the flat in the year 2011. About six months prior to the F.I.R. the members of the society had told the informant to remove the iron gate which was constructed by her outside her flat. The informant told them that the gate was in existence since 2011. Nobody had raised any objection. On 30/01/2022 the Chairman-Appellant Priti had given a letter to the informant demanding Rs.29,900/- for using electricity unauthorisedly from the common meter of the society. On 19/02/2022, at about 10.30a.m. the other society members threatened the informant and her family. On 20/02/2022, in the

morning, society members came there, broke the gate and the lock. It is specifically alleged that, all the appellants then abused her with reference to her caste. According to her, at that time the family and two visitors were present in her house and had heard the abuses. On 27/02/2022, again there was an instance when the society members abused her. On 13/03/2022 somebody broke the CCTV camera and other devises in front of her house. On this basis the F.I.R. was lodged on 23/03/2022.

5. Learned counsel for the Appellants invited my attention to various complaints made by the Appellant Priti as Chairman of the society to various authorities pointing out the problems created by the informant. Apprehension was expressed that the informant would lodge a false case under the Atrocity Act. He submitted that, thus, it is clear that the Appellants are falsely implicated because of the dispute in the society. He submitted that the F.I.R. is lodged with malafide intention and it is lodged belatedly. Therefore, the appellants deserve to be protected by an order of anticipatory bail.

6. Learned counsel for the Respondent No.2/first informant

submitted that, there is sufficient evidence against the Appellants and there are witnesses who had visited the informant's house at the time of incident. She has also explained as to why the F.I.R. was not lodged immediately. She was not keeping well and therefore, she could not approach the police immediately. That did not absolve the Appellants from their crime. Learned APP produced investigation papers before the Court.

7. I have considered these submissions and I have perused the investigation papers. There are some witnesses namely Bhagwat Choure, Sharal Donde who is sister in law of the first informant, Tushar Bhaibhang who was present in the house of the informant on 20/02/2022 and Ravi Ardhapure who had visited their house. These witnesses have supported the case of the first informant. As against that, there are statements of Choure and Sunita Sonawane who have not supported the informant. Kalpana Patil has spoken about the quarrel, but she had not heard anything further. Thus, the investigation papers show that, there is possibility that the incident may or may not be true because there are different witnesses supporting different sides. This has to be

looked in the background of previous complaints made by the Appellant Priti.

First of such complaint is dated 17/01/2022 wherein the Appellant Priti had sought action against the informant for using the electricity unauthorisedly.

Similar complaint was made to Senior P.I. of Indira Nagar police station on 17/02/2022.

The next complaint is dated 28/02/2022 made to the D.C.P. Nashik. In that complaint, apprehension was expressed that the informant would made allegations under the Atrocity Act.

Then one more complaint is dated 13/02/2022 i.e. N.C. lodged by the Appellant Priti against the informant and her family.

The next complaint is dated 03/03/2022 in respect of various problems created by the informant.

Thus, there were complaints and grievances against the informant. The appellants had expressed a fear that the informant

would lodge a false complaint.

8. As far as the incident dated 20/02/2022 is concerned, there is an unexplained delay in lodging the F.I.R. which was lodged on 23/03/2022. Though, the informant claims that she could not lodge the F.I.R. because she was not well, there were other family members including her husband who could have lodged the complaint. Thus, there is sufficient doubt created about the allegation against the Appellants. There is strong possibility of false implication because of previous history. However, at this stage, it is not necessary to record positive findings in respect of those allegations, but sufficient doubt is definitely created. In this view of the matter, the Appellants can be protected by an order of anticipatory bail. It is made clear that, all these observations are made only for the purpose of deciding this Appeal.

9. Hence, the order:

ORDER

- (i) In the event of their arrest in connection with C.R.No. II 42 of 2022 registered at Indira Nagar police station, Nashik, the appellants are

directed to be released on bail on their furnishing P. R. bonds in the sum of Rs.30,000/- each (Rupees Thirty Thousand each Only) with one or two sureties each in the like amount.

- (ii) The Appeal is disposed of accordingly.

(SARANG V. KOTWAL, J.)