

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO.230 OF 2021

Ganesh Ankush Patil and another	Appellants
versus	
The State of Maharashtra and another	Respondents

Mr.Arun Rajput, Advocate for appellants.
Mr.Sushan Mhatre, Advocate for respondent no.2.
Mr.A.R.Patil, APP for State.
ASI Anwar Shaikh, Padgha Police Station.

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 (`Atrocities Act'). The appellants are apprehending arrest in connection with FIR No.227 of 2020 registered with Padgha Police Station for offences under Sections 323, 324, 504, 506 r/w 34 of Indian Penal Code and Sections 3(1)(r), 3(2)(va) of Atrocities Act. The FIR was registered on 19th August 2020.

2. The case of prosecution is that the alleged incident has taken place on 18th August 2020 at about 10.00 p.m. The complainant was apprehended by accused from the field and taken to police station as he was found in the agricultural field in a suspicious manner. It is alleged that the complainant was assaulted. He was dragged into the village and as a result of assault he sustained injuries.

3. The appellants preferred application for anticipatory bail before Sessions Court which was rejected vide order dated 14th

September 2020. Two other accused who were also named in the FIR were arrested. They were in custody and subsequently granted bail by this Court vide order dated 14th September 2020.

4. Submission of learned advocate for appellants is that the FIR was lodged on the next day. The offence under the provisions of Atrocities Act are not made out. The appellants are not attributed role of having abused complainant on the basis of caste. The offences under IPC are bailable in nature.

5. Learned APP submitted that specific overt act has been attributed to the appellants. They were aware that complainant belongs to Scheduled Caste. He was assaulted and dragged in to village. The manner in which offence was committed would not entitle the appellants the relief u/s.438 of IPC. The statements of 3 witnesses were recorded which support the version of complainant.

6. Learned advocate for respondent no.2 adopted submissions of learned APP. He submitted that offences are made out under the provisions of Atrocities Act. Specific overt act has been attributed to the appellants. Evidence collected during investigation is sufficient to reject the application. The co-accused who were arrested and granted bail never attended the Court. In the event relief is granted, there is every likelihood that they may not be available for investigation. Reliance is placed on the decision in the case of **Vilas Pandurang Pawar and another Vs. State of Maharashtra and others**¹ and emphasised on paragraphs 9 and 10 of the said judgment, which relate to bar u/s.18 of the Atrocities Act.

1 (2012)8-SCC-795

7. The complainant has named four persons in the FIR, two of them are arrested and granted bail. On perusal of the FIR it can be seen that there were no abuses on the basis of caste. The case of prosecution is that the accused were aware that complainant belongs to Scheduled Caste and threats issued to complainant and assault are sufficient to invoke provisions of Atrocities Act. The FIR as well as statements of witnesses do not refer to abuses on the basis of caste. The offence under IPC are bailable in nature. Bar u/s.18 of the Atrocities Act would not be attracted. The appellants are entitled for relief prayed in this application.

ORDER

- (i) Criminal Appeal No.230 of 2021 is allowed and disposed of;
- (ii) Impugned order dated 14th September 2020 passed by Additional Sessions Judge, Thane in Anticipatory Bail Application No.1526 of 2020 below Exhibit-1, is quashed and set aside;
- (iii) Interim order dated 12th October 2020 passed by this Court is confirmed;
- (iv) In the event of arrest of appellants in connection with FIR No.227 of 2020 registered with Padgha Police Station, Thane, the appellants be released on bail on their 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.)