

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

CRIMINAL APPEAL NO. 32 OF 2021

1. Nandkumar Baban Babar
2. Amruta Amol @ Kalidas Babar
3. Rutuja Nandkumar Babar ..Appellants

Versus

The State of Maharashtra & Anr. ..Respondents

Mr. Rupesh A. Zade for Appellants.
Smt. M. R. Tidke, APP for State/Respondent No.1.
Mr. Lokesh D. Zade (Appointed Advocate) for Respondent No.2.

**CORAM : SARANG V. KOTWAL, J.
DATE : 7th DECEMBER 2022**

PC :

1. The Appellants have challenged the order dated 20/08/2020 passed by learned Additional Sessions Judge -1 Baramati, District Pune, in Criminal Bail Application No.777 of 2020. In effect, the Appellants are seeking anticipatory bail in connection with C.R.No.360 of 2020 registered at Baramati City Police station for the offences punishable under sections 341, 143, 147, 149, 504 and 506 of the I.P.C., under sections 3(1)(r), 3(1)

(s), 3(2)(va) and Section 6 of the Scheduled Castes and Schedules Tribes (Prevention of Atrocities) Act, 1989 and under section 7(d) (1) of the Protection of Civil Rights Act, 1955.

2. Heard Shri. Rupesh Zade, learned counsel for the Appellants, Smt. Tidke, learned APP for the State and Shri. Lokesh Zade, learned counsel for the Respondent No.2.

3. The F.I.R. is lodged by the Respondent No.2. She has stated that, she was residing with her family consisting of her husband, young son and her mother in law. Her other brothers in law were residing in the same locality. From her parental side she belonged to a scheduled caste. She got married with her husband in the year 2008. The present appellants were her husband's relatives. There used to be frequent quarrels between the appellants' family and the Respondent No.2's husband. There were complaints against each other. The Appellants were suspecting that the Respondent No.2 was giving information regarding their business, for which they suffered in their business.

4. On 02/03/2020, at about 2.00p.m. the Respondent No.2

and her husband had given an N.C. complaint at Baramati City police station against Sangita and Somnath. That N.C. was registered vide N.C.No.260 of 2020. When Respondent No.2 and her husband were returning back towards their house, the Appellants and others came in a four wheeler. They stopped the Respondent No.2 and her husband. The Respondent No.2's husband was slapped. Sangita and Somnath pulled the Respondent No.2 down and started beating her. It is alleged that, Sangita, Somnath, Amol and Rupali uttered derogatory words with reference to Respondent No.2's caste. Thereafter they started going away from the place. While going, the Appellant Nandkumar threatened the Respondent No.2. The first informant has further mentioned that, since they had already lodged an N.C. complaint on that very day in the same police station, they did not go to the police station and did not lodge complaint regarding this incident. But she sent various applications through post to different offices. In the meantime, she delivered a child. Before lodging of F.I.R., accused Sangita had come to her house and had stated something about her caste in presence of the Respondent No.2's husband and

mother in law. After that this F.I.R. is lodged.

5. Learned counsel for the Appellants submitted that the F.I.R. is lodged much belatedly and there is no acceptable explanation offered by the Respondent No.2. Allegedly, the incident had taken place on 02/03/2020 and the F.I.R. is lodged on 10/07/2020. The delay is inordinate. The informant in the past had lodged complaints at the police station and, therefore, she was aware of the procedure of lodging complaints and yet for the incident dated 02/03/2020 no complaint was lodged immediately. It shows that the offence is not true.

6. Learned APP, as well as, learned counsel for the Respondent No.2 opposed this application. They submitted that, in the F.I.R. itself the Respondent No.2 has stated that she has sent various applications to different authorities and, therefore, there was no delay in making grievance.

7. I have considered these submissions. I have also perused the investigation papers. The other eye witnesses are the husband of the Respondent No.2 and his parents. There are no other

independent witnesses. There are no applications in the investigation papers showing that the Respondent No.2 had made grievance before the police station regarding this incident. The delay is definitely inordinate and no acceptable explanation is offered by her. On the alleged date of the incident itself she had lodged an N.C. complaint, therefore, she was well aware of the procedure of lodging F.I.R. Considering this background, there is a possibility of false implication. The incident is old. The appellants deserve protection of an order of anticipatory bail.

8. Hence, the following order:

O R D E R

- i) The Appeal is allowed.
- ii) In the event of their arrest in connection with C.R.No.360 of 2020 registered at Baramati City Police station, 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 Only) with one or two sureties each in the like amount.

iii) The Appellants shall not harass the Respondent No.2 in any manner, directly or indirectly.

iv) The Appeal is disposed of.

(SARANG V. KOTWAL, J.)