

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPEAL NO. 26 OF 2021**

Lalaso Sambhaji Nale and ors. ...Appellants

Versus

The State of Maharashtra and anr. ...Respondents

.....

Mr. Ranjeet M. Pawar for the Appellants.

Mr. A. R. Kapadnis, APP for the State.

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**CORAM : N.R. BORKAR, J.
DATE : 19 SEPTEMBER 2022.**

P.C. :-

This appeal is filed under Section 14A of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 ("SCST Act" for short) against an order passed by learned Additional Sessions Judge, Baramati dated 17 March 2020 in Criminal Bail Application No. 260 of 2020.

2. By the order impugned, the trial Court rejected the anticipatory bail application filed by the present appellants, who are accused in C.R. No. 124 of 2020 registered with Baramati Taluka Police Station for the offences punishable under Section 506, 504, 447, 427 read with Section 34 of IPC and under Sections 3(1)(t), 3(1)(r), 3(1)(s) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities)

Act, 1989.

3. On 22 May 2020, this Court passed the following order:

“1. Heard learned Counsel for the appellants and learned APP for State.

2. It is an appeal under Section 14A of Schedule Caste and Schedule Tribes (Prevention of Atrocities) Act, 1989 (“ SCST Act ” for short). Apprehending arrest in Crime No. 124/2020 registered with Baramati Taluka Police Station for the offences punishable under Sections 427, 506, 504, 447 read with Section 34 of the Indian Penal Code and Sections 3(1)(r)(s) and (p) of the said Act, applicant had approached the learned Sessions

Judge, Baramati, District-Pune. The learned Judge declined to grant protection and hence this appeal.

3. I have perused the FIR. The principal allegation is that, the applicants in connivance and with the help of the Revenue Officers, wrongfully dispossessed the complainant who are members of Mantang Samaaj.

4. It appears, the Revenue Officers held, the complainant had encroached on lands bearing Gat Nos.21 and 563 and directed, their eviction therefrom. Admittedly, Gat No.21 (which is

partly encroached by the complainant) is owned by the applicants herein.

5. Learned Counsel for the applicants, on instructions would submit that complainant was not wrongfully dispossessed in terms of Clause(g) of Section 3 of the said Act, in as much as, before evicting them from Gat no.21 and 563, they were heard and only thereafter Revenue Officers had passed appropriate order of eviction. It may be stated that, the said order is neither brought on record by the appellants nor by the prosecution.

6. The learned Counsel, in the circumstances, seeks time to place a copy of the order passed by the Revenue Authorities on record.

7. Statement of the Counsel that the Revenue Authorities had passed eviction order after hearing the complainant is accepted, for time being, and if that be so, it may not amount to “wrongful dispossession ” envisaged in Clause (g) of Section 3(1) of the said Act.

8. In view of the facts of the case, stand over to two weeks i.e. to 5th June, 2020.

9. In the meantime, in the event of arrest of the applicant in Crime No.124/2020 registered with Baramati Taluka Police Station, applicants shall be released on bail on executing P.R. Bond of Rs.25,000/- each.

10. Applicants shall provide particulars of their address and contact details to the Investigating Officer within a week from today and shall

report to the Investigating Officer as and when called.

11. The contention of the learned APP that application is not maintainable in view of the provisions of Section 18A(2) of the said Act is hereby expressly kept open. It is further clarified, interim protection has been granted on the submissions made by the learned Counsel for the appellants that before evicting the complainant, Revenue Authorities had passed appropriate order after hearing the complainant.

12. Stand over to 5th June, 2020.”

4. The learned Counsel for the Appellants submits that during the pendency of the present appeal the State has filed the charge sheet.

5. In view of the filing of charge sheet, instead of entertaining the present appeal it would be appropriate to direct the appellants to file regular bail application before the competent Court and to continue the order passed by this Court dated 22 May 2020 till the decision of the competent Court in the application for regular bail.

6. The Appellants are directed to file application for regular bail within a period of three weeks from today. If such bail application is filed, the concerned Court shall decide it on its own merits without being influenced by the order passed by this Court dated 22 May 2020.

7. The interim anticipatory bail granted to the appellants by order dated 22 May 2020 shall continue to operate till the decision of the competent Court in the application for regular bail.

8. The Criminal Appeal is disposed of in aforesaid terms. Needless to mention that the concerned Court before passing an order on regular bail application of appellants, shall grant an opportunity of hearing to Respondent No. 2.

(N.R. BORKAR, J.)