

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO.617 OF 2022

Ankush Dattatray Jagtap

Appellant

versus

The State of Maharashtra and another

Respondents

Mr.Viresh V. Purwant, Advocate for appellant.

Mr.Sachin M. Bhavar, Advocate for respondent no.2.

Mr.S.R.Agarkar, APP, for State.

Mr.Rahiman Shaikh, PHC, Solapur Rural, present.

CORAM : PRAKASH D. NAIK, J.

DATE : 7th July 2022

PC :

1. This appeal is preferred challenging order dated 13th June 2022 passed by Special Judge, Barshi, District Solapur rejecting application for anticipatory bail preferred by appellant apprehending arrest in CR No.147 of 2022 registered for offences under Sections 324, 504, 506 of Indian Penal Code read with Sections 3(1)(r), 3(1)(s), 3(2)(va) and Section 6 of Scheduled Castes and Scheduled Tribes (Prevention) of Atrocities Act.

2. Heard both sides. The appeal is taken up for final disposal.

3. The first informant has alleged that there is dispute between first informant and appellant in respect to six acres of land in gat no.125 situated at Tembhurni and that the first informant has filed suit in the Court at Madha. The accused is aware that complainant belongs to scheduled caste. On 7th March 2022 complainant's uncle

Vidyanand Uttam More and Hira Maruti More had loaded the sugarcane from his agricultural field and while doing so the appellant and his mother came to the spot of incident. They told the workers not to take away the sugarcane from the field and also told them to vacate the agricultural field. They were threatened. The appellant abused them on the basis of their caste and told them not to enter the agricultural field. The mother of appellant was also abusing them. The complainant's uncles intervened. At that time appellant removed the rod from vehicle and assaulted the complainant on his head. The mother of appellant assaulted the complainant with stone lying on the spot. The appellant also threw a stone lying on the spot at the complainant which resulted in injury. At that time persons from the area as well as complainant's uncle Vidyanand More and Hira More intervened. The complainant was again abuse on his caste. Thereafter complainant along with his uncles approached police. He was sent for medical examination. The villagers told the complainant that they would settle the dispute. The settlement could not be arrived at. Hence the complainant lodged the FIR on 9th March 2022.

4. The appellant preferred application for anticipatory bail before Sessions Court which has been rejected by the order dated 13th June 2022.

5. Learned advocate for appellant submits that offences under the Atrocities Act are not made out. The incident did not occur within public view. Bar under Section 18 of the Act is not attracted. Although the incident had occurred on 7th March 2022, the FIR was lodged on 9th March 2022. The complaint is false. The offences

under IPC registered against appellant are bailable in nature. False complaint is filed on account of property dispute.

6. Learned APP submitted that contents of FIR makes out offence under the Atrocities Act. Custodial interrogation of the applicant is necessary. Statement of Hira Maruti More was recorded on 10th March 2022. He is the eye witness to the incident.

7. Learned advocate for complainant submitted that FIR makes out offences under Atrocities Act against appellant on account of attempts to settle the dispute. The FIR was lodged on 9th March 2022. The accused is troubling the complainant on account of property dispute. Custodial interrogation of the appellant is necessary. Role has been attributed to the appellant. He was involved in assault as well as abuses on caste. In the past respondent no.2 had lodged FIR No.663 of 2020 against appellant. The appellant was arrested and released on bail on conditions. In breach of the condition, the second offence is committed. Respondent no.2 has filed a civil suit before the Court at Madha. Status-quo order has been passed in favour of respondent no.2 and the appellant has been directed not to disturb peaceful possession of complainant. He is cultivating the said property. The appellant has disobeyed the order of civil court. The appellant has been troubling the complainant and his family. The complainant has filed affidavit in reply.

8. It is apparent that there is dispute between appellant and the complainant over property. The previous FIR was also filed by the complainant against appellant. The appellant was granted bail in the previous FIR after he was arrested. The appellant was in custody

from 5th December 2020 to 16th December 2020. The prosecution is relying on the statement of Hira More which was recorded on 10th December 2020. From the tenor of the FIR it appears that witness is relative of the complainant. It appears that the statements of independent witnesses are not there to support alleged abuses on caste to the complainant. The offences under IPC are bailable in nature. Considering the facts of the case, bar under Section 18 would not be attracted. To hold that incident had occurred within public view, there has to be evidence of independent witnesses in whose presence the incident had occurred. In the circumstances, the appeal can be allowed.

ORDER

- (i) Criminal Appeal No.617 of 2022 is allowed and disposed of;
- (ii) In the event of arrest of appellant in connection of CR No.147 of 2022 registered with Tembhurni Police Station, District Solapur, the appellant is directed to be released on bail on executing PR bond in the sum of Rs.20,000/- with one or more sureties in the like amount;
- (iii) The appellant shall attend Investigating Officer on 18th, 19th and 20th July 2022 between 11 am and 1 pm;
- (iv) Thereafter the appellant shall attend Investigating Officer once in a month on every first Saturday between 11 am and 1 pm till further orders.

(PRAKASH D. NAIK, J.)

MST