

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

CRIMINAL APPEAL NO.327 OF 2021

Babasaheb Govind Mahadik & Ors. Appellants

versus

State of Maharashtra & Anr. Respondents

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- Mr. Nitin Sejpai a/w Smt. Pooja Sejpai a/w Akshata Desai, Advocate for Appellants.
- Mr. S. R. Agarkar, APP for the State/Respondent No.1.
- Mr. Sushan Mhatre (Appointed Advocate) for Respondent No.2.

**CORAM : SARANG V. KOTWAL, J.
DATE : 15th NOVEMBER, 2022**

P.C. :

1. The Appellants have challenged the order dated 22/06/2020 passed by Special Judge, Mangaon-Raigad in Criminal Misc. Application No.66 of 2020. The Appellants were denied anticipatory bail by that order. The Appellants have challenged that order in this Appeal. In effect the Appellants are seeking anticipatory bail in connection with C.R.No.22/2020 registered with Mahad Taluka police station u/s 451, 341, 379,

143, 323, 504 of the Indian Penal Code and u/s 3(2)(va) of The Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act 1989 (hereinafter referred to as the 'Atrocities Act').

2. At the outset, learned counsel for the Appellant states that he is not pressing this Appeal for the Appellant No.2 Prashant Govind Mahadik and that he would seek regular bail before the Special Court. The statement is accepted. The Appeal on behalf of the Appellant No.2 is disposed of as not pressed. He is at liberty to apply for regular bail after his surrender or his arrest. If any such application for bail is made, it shall be decided at the earliest, in accordance with law, without being influenced by this order regarding him. In the present circumstances, the present appeal is considered for Appellant Nos.1, 3, 4 and 5.

3. Heard Mr. Nitin Sejpal, learned counsel for the Appellant, Mr. Sushan Mhatre, learned counsel for the

Respondent No.2 and Mr. S. R. Agarkar, learned APP for the State.

4. The FIR is lodged by the Respondent No.2 on 27/05/2020 at around 10.55 p.m. He has stated that he was belonging to a schedule caste. His hotel at Nangalwadi Phata was closed because of lock down. Therefore he was staying at Khardi with his family. He was looking after the house of his uncle. The house was situated adjacent to the Respondent No.2's house. His uncle had passed away. That house was closed and therefore the Respondent No.2 was taking care of that house. There was a jack-fruit tree in the premises of that house. The Appellants used to take away fruits from that tree unauthorisedly. The Respondent No.2 was opposing them.

5. On 26/05/2020 they committed similar theft. The Respondent No.2 tried to stop them. The Appellant No.2 got angry. He entered the house of Respondent No.2 and kicked him. The Appellant started to go towards Mahad Taluka police station, at that time the Appellant No.2 came there. He again

assaulted the Respondent No.2. Others kept watching. The Respondent No.2 got scared and therefore he did not lodge the FIR at that time. He lodged the FIR on the next day. This in short is the statement in the FIR.

6. Learned counsel for the Appellant submitted that except for Appellant No.2 there are no allegations against any of the Appellants attracting the provisions of the Atrocities Act. The incident is old. More than 2 ½ years have passed. There are indications that the Respondent No.2 was holding grudge against the Appellants because of the local politics and therefore the allegations in the FIR are not true. The Appellants therefore deserve protection of anticipatory bail. In any case, their custody is not required for investigation purpose and the Atrocities Act is not attracted against the remaining Appellants.

7. Learned APP opposed this Appeal on the basis of investigation papers. Learned counsel for Respondent No.2 adopted the submissions of learned APP.

8. As can be seen from the record, the injuries are attributed only to the Appellant No.2. Even the utterances are attributed only to the Appellant No.2. There is hardly any allegations against other Appellants. From the FIR it is clear that the provision of Atrocities Acre are not attracted against the other Appellants. Their custody for investigation of the other allegations is not necessary. Therefore they can be protected by an order of anticipatory bail.

9. Hence, the following order :

ORDER

- (i) The Appeal on behalf of Respondent No.2 is disposed of as not pressed. He is at liberty to approach Special Court for his release on bail if he surrenders or is arrested. If any such application for bail is made, it shall be decided at the earliest, in accordance with law, without being influenced by the present order.

- (ii) In the event of their arrest in connection with C.R.No.22/2020 registered with Mahad Taluka police station, the Appellant No.1 Balasaheb Govind Mahadik, Appellant No.3 Mayur Sanjay Takwale, Applicant No.4 Satyam Dilip Jagtap and the Appellant No.5 Sandesh Uday Mahadik, are directed to be released on bail on their furnishing P.R. bond in the sum of Rs.30,000/- (Rupees Thirty Thousand only) each, with one or two sureties each, in the like amount.
- (iii) With these observations, the Appeal is disposed of.

(SARANG V. KOTWAL, J.)