

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

CRIMINAL APPEAL NO. 628 OF 2022

1. Kalpesh Punaji Palsamkar
 2. Sushant Suresh Palsamkar
- ...Appellants

Versus

1. State Of Maharashtra
 2. Kavita Nana Shimpi
- ...Respondents

**WITH
CRIMINAL APPEAL NO. 629 OF 2022**

1. Sachin Soma Mahadik
 2. Suresh Zima Palsamkar
 3. Sandesh Soma Mahadik
 4. Dilip Damodar Tirlotkar
 5. Rupesh Punaji Palsamkar
 6. Sitaram Sadashiv Nimre
- ...Appellants

Versus

1. State Of Maharashtra
 2. Kavita Nana Shimpi
- ...Respondents

....

Mr. Vijay Kurlle a/w Mr. Samkit Shah, Advocate for Appellants.

Mr. Dilip Shinde i/by Mr. Brijesh R. Jaiswar, Advocate for Respondent

No. 2.

Mr. A. R. Patil, APP for the Respondent – State.

Mr. Pankaj N. Shirsat (A.C.P.) Tulinj Division, Mira-Bhaindar – Vasai

Virar, at the instance of Waliv Police Station, Present.

CORAM : PRAKASH D. NAIK, J.
DATE : 5th JULY, 2022.

PER COURT:

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1. The appellants in Criminal Appeal No.629 of 2022 were arrested on 10th June, 2022, whereas the appellants in Criminal Appeal No.628 of 2022 were arrested on 11th June, 2022.

2. The First Information Report (for short 'FIR') was registered at the instance of the Respondent No.2 on 25th May, 2022 vide C.R.No.541 of 2022 for offences punishable under Sections 143, 147, 149, 427, 323, 504 & 506 of IPC and Sections 3(1)(r), 3(1)(s) and 3(1)(u) of the Scheduled Caste and Scheduled Tribes (Prevention of Atrocities) Act, 1989 (for short "SC/ST Act").

3. The case of the prosecution is that on 24th May, 2022 at about 5.30 p.m. the accused were playing cricket and damage was caused to the roof of complainant's house due to cricket ball. There was altercation between both the sides. Thereafter, the accused abused the witnesses on the basis of caste. Accused assaulted complainant and others. They tried to enter into house of the complainant. They abused the complainant and other witnesses. The sister of complainant was abused on the basis of caste. Damage was caused to the house.

4. Learned Advocate for the applicant submitted that the notice under Section 41A of the Cr.P.C. was issued to the appellants which was complied by them. They appeared before the Police and they

were interrogated. However, they were subsequently arrested on 10th June, 2022 and 11th June, 2022. The appellants are the victims at the instance of complainant and others. One of the appellant had suffered injury. Complaint was lodged at the instance of the appellant with the Police on 27th June, 2022. The complaint dated 20th June, 2020 is false and concocted. Further custody of the appellants is not necessary. The offences under the IPC are bailable in nature. Complaint was lodged by Roshan Mahadik (Son of one of the accused) on 20th June, 2022 against husband of informant and FIR was registered.

5. Learned APP submitted that on reading the FIR, offences are made out against the accused. Statements of witnesses supports the case of the complainant. There are eye witnesses. Investigation is proceeded and it is almost be completed.

6. learned Advocate for the respondent No.2 submitted that the complainant and witnesses were assaulted. The appellants had abused the witnesses on the basis of caste. Incident had occurred within public view. The accused are continuously harassing the complainant and others. The electricity and water connection of the complainant has been disconnected at the instance of accused. The complaint dated 27th June, 2022 is false.

7. It is pertinent to note that the applicants are in custody from 10th June, 2022 and 11th June, 2022. The offences under IPC are bailable in nature. Apparently the appellants had also approached the Police and their N.C. Complaint was registered.

8. From the tenor of the FIR it appears that the allegations are vague. Although the incident had occurred on 24th May, 2022, the FIR was registered on 25th May, 2022. The appellants are in custody for sufficient period. Further detention of the appellants is not necessary, Case for grant of bail is made out. Hence, I pass the following order:

ORDER

- i. Criminal Appeal Nos. 628 of 2022 & 629 of 2022 are allowed and disposed of;
- ii. Order dated 17th June, 2022 passed by learned District Judge – 3 and Additional Sessions Judge, Vasai, rejecting the application for bail is set aside.
- iii. The appellants are directed to be released on bail on executing P.R. Bond in the sum of Rs.15,000/- each with one or more sureties in the like amount;
- iv. The appellants are permitted to furnish cash bail in the sum of Rs.15,000/- each for a period of eight weeks in lieu of surety.

v. The appellants shall report concerned Police Station once in a week for a period of one month.

vi. The appellants shall not enter into vicinity of Respondent No.2 and the complainant till further order.

(PRAKASH D. NAIK, J.)