

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

CRIMINAL APPEAL NO.693 OF 2022

Narayan Prabhakar Apate	 Appellant
versus	
State of Maharashtra & Anr.	 Respondents

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- Mr. Kuldeep U. Nikam a/w. Prasad Avhad a/w. Om Latpate, Advocate for Appellants.
- Mr. S. R. Agarkar, APP for the State/Respondent No.1.
- Ms. Ameeta Kuttikarishkrishnan, appointed Advocate for Respondent No.2.

CORAM : SARANG V. KOTWAL, J.
DATE : 11th NOVEMBER, 2022

P.C. :

1. The Appellant has challenged the order dated 05.07.2022 passed by learned Sessions Judge, Sangli rejecting his application for Anticipatory Bail. In effect the Appellant is seeking Anticipatory Bail in connection with C.R. No.301 of 2022 dated 03.05.2022 registered at Sangli City police station under Sections 324, 504, 506 read with 34 of the Indian Penal Code and under Section 3(1)(r), 3(1)(s) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989

(In short 'Atrocities Act'). Subsequently, Section 3(2)(v)(a) of the said act is also applied.

2. Heard Mr. Kuldeep U. Nikam, Advocate for Appellant, Ms. Ameeta Kuttikarishkrishnan, Advocate for Respondent No.2 and Mr. S. R. Agarkar, APP for the State/Respondent No.1.

3. The FIR is lodged by the Respondent No.2. He has stated that he was friend of one Jeevan Ghadge. There was dispute between Jeevan Ghadage and the present Appellant. The Appellant and Jeevan Ghadage have their respective shops in the same building and there was dispute about parking of vehicles in front of their shops. There were cases lodged against each other in the past. On 02.05.2022, the Respondent No.2 and his cousin Rahul Shinde had gone to Jeevan's shop. He parked his two wheeler in front of that shop. At that time, the Appellant came down from upper floor of the building. He pointed to the vehicle bearing a particular symbol. He uttered derogatory words regarding a Scheduled Caste and told the first

informant not to park vehicle belonging to people of that caste. In the meantime, Jeevan came to the spot and tried to reason with the Appellant. A quarrel started between them. The Appellant took a stick lying nearby and started assaulting. He gave a blow on the informant's leg. The informant removed that stick from the Appellant's hand. Then the Appellant picked up a tile and gave a blow on the backside of Rahul's head. Jeevan's mother, Jaya, friend Yogesh came there to intervene. The family members of Appellant, assaulted Jeevan's mother. Yogesh was assaulted by the Appellant. After that the first informant approached the police station and lodged his FIR.

4. Learned counsel for the Appellant made submission as under:

(i) The alleged utterance was not in a public view. The alleged witnesses are either from Jeevan's family or were working with Jeevan.

(ii) Section 3 (2)(va) of the said act is not applicable because the appellant did not assault with

the intention to cause injury to a person belonging to a Scheduled Caste.

(iii) The quarrel was between the Appellant and Jeevan. The informant was not the target. Therefore, provisions of Atrocities Act are not applicable.

(iv) Jeevan was using the first informant/Respondent No.2 in this case to somehow implicate the Appellant in a case under the Atrocities Act, so that he could not get relief of Anticipatory Bail.

(v) The Appellant himself had lodged C.R. No.303 of 2022 at the same police station on 03.05.2022, under Section 324 of IPC and other Sections regarding the same incident, in which he himself and his family members had suffered injuries. The Respondent No.2 had not made reference to any such injuries and therefore, the FIR against the Appellant is not true.

5. Learned APP as well as learned counsel for the Respondent No.2 submitted that the Appellant had knowingly

uttered derogatory words against a particular caste and therefore, provisions of the Atrocities Act are properly applied. Learned APP, in particular, relied on the statement of Vinay Tate who has described the incident from the inception and he has referred to the derogatory words used by the Appellant. According to the learned APP and learned counsel for the Respondent No.2, the offence under the Atrocities Act is made out, and hence, Anticipatory Bail cannot be granted to the Appellant.

6. Besides these submissions, both of them emphasized that even offence under Section 3 (2) (va) is made out because the Respondent No.2 and his cousin Rahul were assaulted with stick and tile and was not injured. Thus, attracting Section 324 of I.P.C. which is under the schedule mentioned under Section 3 (2) (va) of the Atrocities Act.

7. I have considered these submissions and I have perused the investigation papers in respect of the C.R. No.301 of 2022 as

well as C.R. No.303 of 202 registered at Sangli City police station. As far as the FIR lodged by the Appellant himself is concerned, the investigation was carried out in that behalf and the investigation papers included medical certificates of Prabhakar Apte, the Appellant himself, Kavita Apte i.e. wife of the Appellant, Sadhika Apte, Vanshika Apte, Pramila Apte. Thus, there are six injured from the side of the Appellant. All of them have suffered injuries. Most of the injuries are abrasions CLW and blunt trauma. The injuries are on the head, forearms, face, back, chest, nose of these injured. Thus, it is quite clear that the Appellant's family members were assaulted by the other side with hard and blunt weapons. There is absolutely no reference to this assault either in the FIR or any of the statements of the alleged eye witnesses, which are recorded during the investigation into C.R. No.301 of 2022.

8. On the other hand, from the Ghadage's side Jaya Ghadge and the Respondent No.2, Yogesh Londhe and Rahul Shinde had suffered some injuries. They are simple in nature.

The Respondent No.2 has suffered one blunt trauma on the left leg. Thus, there appears to free fight between two groups. Both the groups are giving their own versions.

9. Thus, it is more than clear that the allegations in the FIR as well as in the statements of the eye witnesses are not completely true. Therefore, there is reasonably strong possibility of exaggeration of the story and false implication of the Appellant.

10. Therefore, I do not feel safe to rely on these statements to deny relief of Anticipatory Bail to the Appellant.

11. Hence the following order:

O R D E R

(i) The Appeal is allowed.

(ii) In the event of his arrest in connection with C.R. No.301 of 2022, registered at Sangli City Police

Station, the Applicant is directed to be released on bail on his executing P.R. bond in the sum of Rs.30,000/- (Rupees Thirty Thousand Only) with one or two sureties in the like amount.

(iii) The Appellant shall co-operate with the investigation.

(iv) The Appeal is disposed of accordingly.

(SARANG V. KOTWAL, J.)