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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPEAL NO. 712 OF 2021

1. Ramesh Dattu Kathe
2. Bharat Dattu Kathe
3. Nirmal Bharat Kathe
4. Rajendra Ramesh Kathe
5. Sau. Aasha Bharat Kathe
Versus
The State of Maharashtra and Anr.

...Appellants
...Respondents

ALONGWITH

CRIMINAL APPEAL NO. 713 OF 2021

1. Umesh Baburao Karpe
2. Sagar Sudam Dighole
3. Suraj Omprakash Rajput
Versus
The State of Maharashtra and Anr.

...Appellants
...Respondents

Mr. Rajiv Patil, Senior Advocate a/w Mr. Saurabh Raut for the Appellants.

Mr. Vivek Arote for the Respondent No2.

Mr. A.R.Patil, A.P.P for the Respondent No.1-State.

CORAM : REVATI MOHITE DERE, J.
DATE : 30th MARCH, 2022

P.C. :

1. Heard learned Counsel for the parties.

2. Rule. Rule is made returnable forthwith with the consent of the parties and is taken up for final disposal. Learned APP waives service on behalf of Respondent No.1 – State. Mr.Vivek Arote waives notice on behalf of the respondent No.2.

3. Vide order dated 2nd September, 2021, the aforesaid appellants were granted interim pre-arrest bail on certain terms and conditions and notice was issued to the respondent No.2.

4. By this appeal, the appellants seek pre-arrest bail in connection with C.R.No. 52 of 2021 registered with the Nashik Taluka Police Station, Nashik, for the alleged offences punishable under Sections 143, 147, 148, 149, 323, 294, 504, 506 of the Indian Penal Code and under Sections 3(1)(r)(s), 3(1)(f)(g) and 3(2)(va) of the Scheduled Caste and Scheduled Tribe (Prevention of Atrocities) Act.

5. Perused the papers. The incident, in question, is stated to have been taken place on 26th June, 2021. It is alleged by the respondent No.2 i.e. the complainant that the appellants entered the suit property which is the subject matter of dispute between the appellants and the respondent

No.2 and hurled abuses in the name of the respondent No.2's caste and even assaulted the respondent No.2 and others. Although, the incident is alleged to have been taken place on 26th June, 2021, an FIR was lodged by the respondent No.2 only on 15th August, 2021. A perusal of the FIR shows that all the appellants, in chorus are alleged to have abused the respondent No.2 in the name of his caste. The same *prima facie*, seems improbable. No injury certificate has also been placed on record to show that the respondent No.2 or any other person sustained any injury as alleged in the complaint. The facts reveals that there is a civil dispute between the parties and that the respondent No.2 has filed a civil suit alongwith an application for injunction. The said injunction application filed by the respondent No.2 was rejected by the trial Court vide order dated 31st January, 2019. The said order was confirmed by the District Court vide order dated 31st October, 2020. Against the said order, respondent No.2 filed a writ petition in this Court and the same was dismissed for want of prosecution vide order dated 5th February, 2021. Learned Counsel for the appellants submits that the respondent No.2 not having got an order in his favour with respect to the suit property, maliciously filed a complaint/FIR to pressurize the appellants. Prima facie, not only is the complaint belated, but no material is placed on record to show that the respondent No.2 sustained any injury in the said incident as alleged. Though the learned Counsel for the

respondent No.2 submits that the incident had taken place, no medical certificate has been placed on record in support of the said submissions to show that the respondent No.2 or any other person sustained injuries in the said incident. There is an earlier complaint lodged against some of the appellants which was registered with the same Police Station vide C.R.No. I 59 of 2020, alleging similar offences. By a separate order passed today, the said appellants have been granted pre-arrest bail on certain terms and conditions.

6. Considering the aforesaid, the interim protection granted by this Court vide order dated 2nd September, 2021 stands confirmed on the following terms and conditions :-

ORDER

- (i) In the event of the arrest, the appellants be enlarged on bail on furnishing P.R. Bond in the sum of Rs.10,000/- each, with one or two sureties in the like amount ;
- (ii) The appellants shall attend the concerned Police Officer on every Saturday from 10.00 a.m. to 12.00 noon, till the filing of the chargesheet, and thereafter, as and when called;

(iii) The appellants shall co-operate in the conduct of the trial and shall attend the trial Court on every date of hearing, unless exempted by the trial Court;

(iv) The appellants shall inform their latest place of residences and mobile contact numbers and/or change of residence or mobile details, if any, from time to time to the Court seized of the matter and to the Investigating Officer of the concerned Police Station;

(v) The appellants shall cooperate in the conduct of the trial.

7. Rule is made absolute on the aforesaid terms and the Appeals are accordingly disposed of.

8. All concerned to act on the authenticated copy of this order.

REVATI MOHITE DERE, J.