

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

CRIMINAL APPEAL NO.954 OF 2021

1. Sneha Rohit Yelvankar
2. Rohit Motiram Yelvankar
3. Rakesh Motiram Yelvankar
4. Sandeep Shankar Pawar
5. Chandrakant Laxman Chawan ...Appellants
Versus
State of Maharashtra and Anr. ...Respondent

Mr. Mainak Adhikary, for the Appellants.

Mr. S. S. Pednekar, A.P.P for the Respondent No.1 – State.

Mr. Praful S. Potdar, for the Respondent No.2.

CORAM : REVATI MOHITE DERE, J.

DATE : 3rd MARCH 2022

P.C. :

1. Heard learned Counsel for the parties.
2. By this appeal, the appellants seek pre-arrest bail in connection with C.R. No.993 of 2021, registered with the Virar Police Station, for the alleged offences punishable under Sections 3(1)(r) and 3(1)(s) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act (for short 'SCST Act').

3. Vide order dated 26th November 2021, this Court (Coram: Sandeep K. Shinde, J.) granted interim protection to the appellants on certain terms and conditions.

4. Perused the papers. It appears that the incident in question had taken place on 22nd October 2021 at around 9:30 p.m. It appears that pursuant to the said incident, the appellant No.1 - Sneha Yelvankar lodged an NC with the Virar Police Station, alleging an offence punishable under Sections 504 and 506 of the Indian Penal Code. In the said complaint, the appellant No.1 has stated that a quarrel took place in which the respondent No.2 abused and threatened her. The said NC is on page 21 of the appeal. The FIR was lodged immediately soon thereafter by the respondent No.2, alleging offences punishable under the SCST Act. According to the respondent No.2 (original complainant) in the quarrel that ensued between the appellants and the respondent No.2, all the aforesaid 5 appellants abused her in the name of her caste. According to the learned counsel for the appellants, the allegations as against the appellants are false and baseless. He submits that the appellants were not even aware of the caste of the respondent No.2 and that she belonged to the scheduled caste. He

submits that infact, the appellant No.5 – Chandrakant Chawan was not even present there at the time of the incident and was at this office till 8:30 p.m. and returned home, post the incident. Of course, this is the defence of the said appellant.

5. Learned APP states that during the course of the investigation, statements of 4 witnesses were recorded. He submits that 2 witnesses have supported the respondent No.2, whereas, 2 other witnesses have not supported the allegations of hurling castiest abuses on the respondent No.2.

6. Learned Counsel for the appellants states that the aforesaid 2 witnesses who have supported the respondent No.2, are her witnesses, whereas, the other 2 witnesses are independent witnesses. When questioned, learned APP states that two witnesses have stated that they were present and had witnessed the quarrel, however, they did not hear any castiest abuses made by the appellants on the respondent No.2, during the course of the quarrel.

7. Learned Counsel for the appellants has annexed a document which is at Exhibit – D, on page 22 of the appeal i.e. the letter dated 26th October, 2021, signed by the Society Members, where the appellants and the respondent No.2 are staying. In the said letter, the members of the Society have stated that the incident took place between 9:00 to 9:15 p.m. between the appellant No.1 and the respondent No.2 and that all were personally present when the said incident took place. They have stated that there was a quarrel between both the appellant No.1 and the respondent No.2, however, no castiest abuses were heard in the said quarrel. The said letter relied upon by the learned counsel for the appellants is signed by about 18 members of the Society. It appears from the said letter signed by 18 persons, that the statement of one out of the said 18 persons have been recorded by the police and the statement of husband of one of the signatory is recorded to the effect that there was a quarrel, however, no abuses were heard. *Prima facie*, having regard to the dispute between the parties, the possibility of false implication by the respondent No.2, cannot be ruled out.

8. Considering the aforesaid, the interim protection granted by this Court (Coram: Sandeep K. Shinde, J.) vide order dated 26th November 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 more sureties in the like amount ;
- (ii) The appellants shall report to the Investigating Officer of the concerned Police Station, as and when called;
- (iii) The appellants shall not tamper or attempt to influence the complainant, witnesses or any person concerned with the case.
- (iv) The appellants shall inform their latest place of residence and mobile contact number 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 to cooperate with the investigating agency.

9. The Appeal is allowed in the aforesaid terms and is accordingly disposed of.

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

REVATI MOHITE DERE, J.