

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

CRIMINAL APPEAL NO.1238 OF 2019

Gajanan Tabaji Dongare & Anr. Appellants

versus

State of Maharashtra & Ors. Respondents

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- Mr. Deepak Gautam a/w Nandini Vasaikar i/b. Prakash V. Vare, Advocate for Appellants.
- Smt. M. R. Tidke, APP for the State/Respondent.
- Mr. Vinayak R. Kumbhar, Advocate for Respondent No.3.

CORAM : SARANG V. KOTWAL, J.
DATE : 14th DECEMBER, 2022

P.C. :

1. The Appellants have challenged the order dated 31/08/2019 passed by the Additional Sessions Judge, Dindoshi, Mumbai, passed in Anticipatory Bail Application No.1145 of 2019. In effect the Appellants are seeking Anticipatory Bail in connection with C.R.No.233/2019 dated 14/08/2019 registered with Sakinaka police station u/s 3(1)(r)(s) of the The Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 (for short 'Atrocities Act').

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2. Heard Mr. Deepak Gautam, learned counsel for the Appellant, Mr. Vinayak R. Kumbhar, learned counsel for Respondent No.3 and Smt. M. R. Tidke, learned APP for the State.

3. The FIR is lodged by the Respondent No.3. In the first part of his FIR he has described the strained relations between the Appellants and the Respondent No.3 and other teachers working with the school run by the Appellants. There was dispute about their salary and about forced contribution which the Respondent No.3 and others were asked to make. The main incident which is the subject matter of this FIR is dated 24/07/2019. The Respondent No.3 has stated in his FIR that at around 12.25 p.m. he had a meeting at school. He went to sign the muster, but it was kept in the cabin of the Appellant No.1. The Respondent No.3 and his two colleagues Devrukhkar and Kale went inside the cabin to sign the muster. However, the Appellants asked him to go to Sakinaka police station and

inform them that they were attending their work. The Respondent No.3 did not accept that suggestion. It is alleged that Appellant No.2 gave fist blow on the Respondent No.3's stomach. The Appellant No.1 abused him with reference to his caste and the Respondent No.3 was pushed outside the cabin. On this basis, the FIR is lodged.

4. Learned counsel for the Appellants submitted that the Appellant No.1 is 87 years of age. The FIR is lodged because of bad relations between some teachers and the Appellants. The offence u/s 3(1)(r),(s) is not made out. It has not taken place in public view. He submitted that they are on protection since year 2019. There is delay in registering the FIR. The incident is dated 24/07/2019 and FIR is lodged on 14/08/2019.

5. Learned counsel for the Respondent No.3 opposed this application and submitted that was no delay in approaching the police. The Respondent No.3 had given a letter to the Police Inspector, Sakinaka Police Station, on 24/07/2019 itself making

the grievance about the incident. He submitted that the offence is made out and there is continuous harassment to the Respondent No.3 and others at the hands of the Appellants and therefore protection of anticipatory bail may not be granted to the Appellants.

6. Learned APP also opposed this Appeal and produced the investigation papers before me.
7. In the interest of justice, I permitted learned counsel for Respondent No.3 to read the Panchanama of the CCTV footage. Besides this Panchanama, the important statements are of witnesses Devrukhkar and Kale. Though they have supported the FIR lodged by the Respondent No.3, their statements are recorded on 02/10/2019. There is no explanation for this delay at this stage in recording their statements. The effect of such statements recorded belatedly will have to be considered at the proper stage during trial.

8. More important piece of evidence appears to be Panchanama of CCTV footage dated 24/07/2019. The footage is between 11.40 a.m. and 12.14 p.m. That footage is not audible. However, the incident is described there. There is no mention of anybody giving blow to any other person. To that extent it does appear that there is some exaggeration in the FIR. The Appellant No.1 is 87 years old. There is some doubt about the incident. The relationship between the parties was strained. Therefore there is possibility of exaggeration. However, it would not be proper to comment anything further on this aspect at this stage. Considering all these factors, the Appellants can be protected by an order of anticipatory bail. It is made clear that all the observations are restricted to passing of this order only and the trial Court shall not be influenced by any of these observations at the time of conducting the trial.

9. Hence, the following order :

ORDER

(i) Appeal is allowed.

- (ii) In the event of their arrest in connection with C.R.No.233/2019 dated 14/08/2019 registered with Sakinaka police station, the Appellants are directed to be released on bail on their furnishing PR. bond in the sum of Rs.30,000/- (Rupees Thirty Thousand only) each, with one or two sureties each, in the like amount.
- (iii) Appeal stands disposed of accordingly.

(SARANG V. KOTWAL, J.)