

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

CRIMINAL APPEAL NO.43 OF 2022

Sagar s/o Niranjan Kadone,
aged 31 yrs, Occ-Agriculturist
R/o Patur, Tq-Patur, Dist. Akola.

... Appellant

// VERSUS //

1) State of Maharashtra,
Through Police Station Officer Police
Station Patur,
Tq. Patur, Dist- Akola.

2) Sau. Archana Sudhakar Shinde,
Aged-35 yrs, Occu-Sarpanch,
R/o Shirla, Tq. Patur, Dist-Akola.

... Respondents

Shri S.V. Sirpurkar, Advocate for applicant
Shri Khan, APP for the State / Non-applicant

CORAM : ANIL S. KILOR, J.

DATED : 26th FEBRUARY, 2022.

ORAL JUDGMENT :

Heard Shri Sirpurkar, learned counsel for the applicant and Shri Khan, learned APP. None for the respondent No.2 though served.

2. **ADMIT.**

3. This appeal is arising out of rejection of application for pre-arrest bail vide impugned order dated 11.01.2022, passed by the Additional Sessions Judge, Akola.

4. On the allegations that the applicant has abused the complainant on her caste and tried to outrage her modesty, the Crime No.591 of 2021 dated 30.11.2021, for the offences punishable under Sections 354, 354-A, 504, 506 of the Indian Penal Code and Sections 3(1)(r), 3(1)(s), 3(1)(w)(i), 3(1)(w)(ii), 3(2)(va) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989.

5. The learned counsel for the applicant submits that the complainant is the Sarpanch of village Shirla Gram Panchayat and as per her own version, there are two groups, nine persons on one side and eight persons on the other. It is submitted that the alleged incident had taken place in the monthly meeting of the village panchayat. It is submitted that out of the political rivalry, the complaint came to be lodged by the complainant, whereas, no such incident had happened.

6. The learned counsel for the applicant has pointed out that in the affidavits filed along with this appeal of the members of the village panchayat, most of the members have stated that as no such incident had ever taken place in the meeting on 30.11.2021 as alleged by the complainant.

7. Shri Khan, learned APP strongly opposes the appeal and made available the Case Diary for perusal. It is submitted that as sufficient material

is there to *prima facie* show the involvement of the applicant in the alleged offence, the appeal may be rejected.

8. On perusal of the Case Diary, it is revealed that there are statements of witnesses recorded by the investigating officer during the investigation. Few witnesses, who are the members of gram panchayat, have stated that no such incident had ever taken place. Whereas, some of the members have corroborated the prosecution story. It appears that there are two political groups as stated by the complainant herself and *prima facie* the dispute had arisen out of political rivalry.

9. In that view of the matter, I am inclined to allow this appeal and pass the following order:

- i) The appeal is allowed.
- ii) The impugned order in Misc. Criminal Application No.1192 of 2021 dated 11.01.2022 passed by the Additional Sessions Judge, Akola, is hereby quashed and set aside.
- iii) In the event of arrest the appellant in crime No.590 of 2021, registered with Police Station, Patur, District Akola, dated 30.11.2021, for the offences punishable under Sections 354, 354-A, 504, 506 of the Indian Penal Code and Sections 3(1)(r), 3(1)(s), 3(1)(w)(i), 3(1)(w)(ii), 3(2)(va) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989, he be

released on bail on furnishing P.R. Bond of Rs.15,000/- with a solvent surety of like amount.

iv) The appellant shall attend the concerned Police Station as and when his presence is required.

v) The appeal is **disposed** of.

[ANIL S. KILOR, J.]

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