

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
NAGPUR BENCH, NAGPUR.**

CRIMINAL APPEAL NO. 58 OF 2022

1. Sau. Manjula W/o. Ganesh Punekar,
Aged about 47 years, Occ.:- Housewife,
R/o.:- Shelodi, Tahsil :- Khamgaon,
District Buldhana.
2. Sau. Samruddhi W/o. Aakash Gore,
aged about 22 years, Occ.: Service,
R/o.:- Sane Square, Chikhali, Pune,
Tahsil & District :- Pune.

.... **APPELLANTS.**

// VERSUS //

1. The State of Maharashtra,
through Office-in-Charge of Police Station
Khamgaon Rural, Tahsil :- Khamgaon,
District :- Buldhana.
2. Sau. Sangita W/o Jitendra Ingle,
aged about 31 years, R/o.:- Village
Shelodi, Khamgaon Rural, Tahsil:-
Khamgaon, District :- Buldhana.

.... **RESPONDENTS.**

Shri H.R. Gadhia, Advocate for Appellants.
Ms Trupti Udeshi, A.P.P. for Respondent No.1/State.

CORAM : ANIL S. KILOR, J.
DATED : MARCH 03, 2022.

ORAL JUDGMENT :

1. Heard.

2. **ADMIT.**

3. This appeal is arising out of the order dated 14/01/2022 rejecting an application moved by the appellants for grant of anticipatory bail vide Criminal Application (ABA) No.13/2022, passed by the learned Additional Sessions Judge, Khamgaon, District Buldhana.

4. On the allegation that the accused persons have assaulted the complainant and abused her on caste, the Crime No.456/2021 was registered on 30/12/2021 with the police station Khamgaon Rural, District Buldhana for the offences punishable under Sections 143, 354, 354A, 341, 294, 506 of the Indian Penal Code and Sections 3(1)(r), 3(1)(s), 3(w)(i)(ii), 3(2) (va) of the Scheduled Casts and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 and Section 135 of the Bombay Police Act, 1951.

5. This Court vide order dated 03/02/2022, granted *ad-interim* anticipatory bail and the applicants were directed to attend the police station on every Monday, Wednesday and Friday in between 10.00 a.m. and 12.00 noon until further order.

6. The learned Counsel for the appellants submits that the applicants have attended police station as directed by this Court. It is further submits that on merit, there is no incriminating material available on record to show the involvement of the appellants. It is submitted that the complaint lodged by the complainant is the counterblast as the appellant No.2 had lodged a complaint against eleven accused including the husband of the complainant. It is, therefore, prayed that the interim protection granted to the appellants may be confirmed by the impugned order.

7. On the other hand, the learned APP strongly opposed the appeal and submits that during the investigation, the investigating officer has recorded statements of witnesses and from the statements of witnesses, the involvement of the appellants is apparent. She, therefore, prays for rejection of the present appeal.

8. Though the respondent is served, nobody is appearing on behalf of the respondent No.2.

9. On perusal of the case diary and after going through the contents of the First Information Report, it is revealed that there are allegations of assault and abuse on caste. The main accused was arrested and he was released on regular bail. As far as, the present appellants are concerned, *prima facie*, I am of the opinion that there is no incriminating material to attract the provisions of Atrocities Act against the appellants.

10. In that view of the matter, I am of the opinion that appeal needs to be allowed and order dated 03/02/2022 granting ad-interim bail should be confirmed. Accordingly, I passed the following order:

- i) The Criminal Application is **allowed**.
- ii) The order passed by the Additional Sessions Judge, Khamgaon Rural, District Buldhana below Criminal Application (ABA) No.13/2022 on 14/01/2022 is set aside.

- iii) The interim order passed 03/02/2022 granting pre-arrest bail to the appellants is confirmed.
- iv) The appellants shall not tamper with the prosecution evidence or pressurize the prosecution witnesses.
- v) The appellants shall attend police station as and when their presence is required.

The Criminal Appeal stands **disposed of** accordingly.

JUDGE

R.S. Sahare