

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

Criminal Appeal No. 65 of 2022

Gajanan S/o Mahadev Kadu and another

Versus

The State of Maharashtra, through Police Station Officer, Police Station
Mangurlpir, Dist. Washim and another

Office Notes, Office Memoranda of
Coram, appearances, Court's Orders
or directions and Registrar's order

Court's or Judge's Order

Shri A.S.Band, Advocate for the Appellant.

Ms. T. Udeshi, APP for the respondent/State.

CORAM : ANIL S. KILOR, J.

DATED : 18th FEBRUARY, 2022.

This is an appeal arising out of order below
Exh.1 dated 25th January, 2022 passed by Additional
Sessions Judge, Link-Court, Mangrulpir rejecting the
application filed by appellants for grant of anticipatory
bail in Crime No. 40 of 2022 for the offences
punishable under Sections 504, 506 read with 34 of the
Indian Penal Code and Sections 3(1)(f), 3(1)(g), 3(2)
(va) of the Scheduled Castes and Schedule Tribes
(Prevention of Atrocity) Act registered with Mangrulpir
Police Station.

2. It is the case of the prosecution that the complainant lodged a report on 15th January, 2022 stating therein that appellants and other co-accused had cut trees in his field at village Amgavhan. When the complainant objected, at that time the accused raised quarrel with him and abuses him on his caste and threatened to kill him. Accordingly, a crime was registered vide Crime No. 40 of 2022.

3. I have heard learned counsel for the respective parties.

4. Learned counsel for the appellants submits that appellants and the complainants are the owners of adjoining agricultural land. There is a Dhura in between the land and dispute arose in respect of Dhura and out of the said dispute the complaint came to be lodged by the complainant of a incident which had never happened with an intention to harass the appellants. He, therefore, submits that appellants may be granted anticipatory bail in this matter.

5. Learned Additional Public Prosecutor has made available the case diary for perusal and submits that there are witnesses who have corroborated the story of the complainant and accordingly, she prays for dismissal of the appeal.

6. Learned counsel for the respondent no.2 submits that while rejecting the application for anticipatory bail by the learned Additional Sessions Judge, Link-Court, Mangrulpir, the Court has not committed any error after finding *prima facie* case against the appellants. He, therefore, prays for maintaining the said order of rejection of anticipatory bail.

7. After going through the case diary and also after considering the allegations made in the First Information Report, it is revealed that two witnesses to which the learned Additional Public Prosecutor has referred, are the close relatives of the complainant and they were not present at the time of incident. From the spot panchanama which is available it has come on record that the appellants did not enter into the land owned by the complainant, but the trees alleged to have been removed were removed from the Dhura i.e. boundary. There is no witness to the incident of abusing the complainant on his caste.

8. In that view of the matter, I am of the opinion that the appellants are entitled for grant of anticipatory bail. Accordingly, I pass the following order.

ORDER

- i. Criminal Appeal is allowed;
- ii. The impugned order below Exh.1 dated 25th January, 2022 passed by the Additional Sessions Judge, Link-Court, Mangrulpir in Misc. Civil Application No. 27 of 2022 in crime No.40 of 2022 is hereby quashed and set aside;
- iii. In the event of arrest of appellants in Crime No.40 of 2022 for the offences punishable under Sections 504, 506 read with 34 of the Indian Penal Code and Sections 3(1)(f), 3(1)(g), 3(2)(va) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocity) Act, the appellants shall be released on bail on furnishing P.R Bond of Rs.15,000/- each with solvent surety of equal amount each;
- iv. The appellants shall attend concern police station every Saturday and Sunday between 10 am to 11 am for six weeks and thereafter whenever their presence are required.

[ANIL S. KILOR, J.]

SACHINDANAND
K NAIR

Digitally signed by
SACHINDANAND
K NAIR
Date: 2022.02.23
10:54:56 +0530