

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

CRIMINAL APPEAL NO. 175 OF 2022

APPELLANTS: 1] Meenakshi w/o Dattatray Sawale,
Age 55 years, Occupation : Household.
2] Shailesh s/o Dattatray Sawale,
Aged about 28 years, Occu: Agriculture,
Both R/o Tarhala, Taluka-Mangrulpir,
District Washim.

...V E R S U S...

RESPONDENTS 1] State of Maharashtra,
through Police Station Officer,
Police Station Mangrulpir,
Taluka Mangrulpir, District Washim.

2] Sau. Seema w/o Sunil Khirade,
Aged 33 years, Occu: Household,
R/o Tarhala, Taluka Mangrulpir,
District Washim.

Shri S.S. Dhengale, Advocate for the appellants.

Shri S.D.Sirpurkar, A.P.P. for the respondent No.1/State.

CORAM : ANIL S. KILOR, J.
DATE : 06th December,2022

ORAL JUDGMENT :

1. Heard Shri S.S. Dhengale, learned Advocate for the
appellants and Shri S.D.Sirpurkar, learned APP for the respondent
No. 1/State.

2. **ADMIT**

3. The appellants are seeking interim bail in connection with Crime No. 166 of 2022, registered with Police Station, Mangrulpir, Tq. Mangrulpir, District Washim for the offences punishable under Sections 354, 354-A, 323, 504, 506 and Section 34 of the Indian Penal Code and Section 3(1)(w)(i) and Section 3(2)(va) of the Scheduled Caste and Scheduled Tribe (Prevention of Atrocities Act), 1989 (for short 'the Atrocities Act').

4. In this case, the allegations are of assault, insult and humiliation to the informant who belongs to Scheduled Caste category, by the accused.

5. After going through the case-diary, it appears that there is a dispute amongst them about a plot and out of the said dispute, the incident took place.

6. The Hon'ble Supreme Court of India in the case of *Hitesh Verma vs. State of Uttarkhand and another*¹ has held in similar case is a dispute about the land and other side is claiming right over the disputed property, and in case the incident took place, it cannot be considered as incident took place to humiliate the

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informant because, the informant belongs to Scheduled Caste or Scheduled Tribe Category, but the incident took place regarding dispute of the immovable property.

7. In the circumstances, in view of the fact that there is a dispute about the ownership of the adjoining plot and the incident took place out of that dispute, it cannot be said that the alleged assault was made to humiliate the informant, for the reason that, she belongs to the Scheduled Caste. In the circumstances, it is doubtful whether the provisions of the Atrocities Act will apply in the present facts and circumstances of the case. Thus, the bar under Section 18 of the Indian Penal Code will not come in the way of the applicant.

8. Moreover, the medical report does not support the case of the prosecution about assault. Thus, considering the over all material available in the case-diary which was collected during the investigation, I am of the opinion that, the applicant is entitled for grant of pre-arrest bail. Accordingly, I pass the following order:

- a) The criminal appeal is **allowed**.
- b) The order passed by the learned Additional Sessions Judge, Link Court Mangrulpur, District Washim dated 17/03/2022, is hereby quashed and set aside.

- c) The order granting *ad-interim* bail dated 29/03/2022, is hereby confirmed.
- d) The appellants shall attend the concerned Police Station as and when their presence is required.

[ANIL S. KILOR, J.]

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