

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

CRIMINAL APPEAL NO. 408/2021

- 1) Kailas Shriram Sultane,
Aged 38 years, Occ.: Labourer,
- 2) Sau. Kalpana Kailas Sultane,
Aged 30 years, Occ. Housewife,
- 3) Gaurav Kailas Sultane,
Aged 19 years, Occ. Education,
- 4) Shriram Dhondu Sultane,
Aged 55 years, Occ. Labourer,

All R/o. Gunjkhed, Tahsil :Lonar,
District : Buldana.

.... **APPELLANTS.**

// VERSUS //

1. State of Maharashtra,
Through P.S.O. Lonar,
Tahsil – Lonar, District : Buldana.
2. Bebibai W/o. Ashok Gaikwad,
Aged 35 Occ. Agriculturist,
R/o. Gunjkhed, Tahsil : Lonar,
District : Buldana.

.... **RESPONDENTS.**

Shri P.K.Bezalwar, Advocate for Appellants.
Shri S.D.Sirpurkar, A.P.P. for Respondent No.1/State.
Ms Sonali Saware, Advocate (Appointed) for Respondent No.2.

CORAM : ANIL S. KILOR, J.
DATED : MARCH 11, 2022.

ORAL JUDGMENT :

1. Heard.

2. ADMIT.

3. The complainant lodged a report alleging that the appellants, by entering into her house, assaulted and abused the complainant and her daughter-in-law on caste and further outraged their modesty. Thereupon, Crime No. 194 of 2021 was registered with Police Station, Lonar, District : Buldana for the offences punishable under Sections 323, 324, 354-A, 452, 504 and 506 of the Indian Penal Code and Sections 3(1)(r), 3(1)(s), 3(1)(w)(i) and 3(1)(w)(ii) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989.

4. The appellants thereafter filed an application for anticipatory bail which came to be rejected vide order below Exh.1, dated 16/09/2021 passed by learned Additional Sessions Judge, Mehkar, District : Buldana in Criminal Bail Application No.149 of 2021. The said order dated 16/09/2021 is under challenge in this appeal.

5. This Court, vide order dated 04/10/2021, granted *ad-interim* protection to the appellants and accordingly it is informed that the appellants attended the Police Station every Sunday in between 11:00 a.m. and 02:00 p.m. as per one of the conditions put by this Court while granting *ad-interim* protection to the appellants. There is no complaint about misuse of liberty.

6. After going through the First Information Report and case diary, it is revealed that there is no independent witness who has given a statement to the police corroborating the case of the complainant. Moreover, it is revealed that there was a dispute between the appellants and the complainants about an agricultural field and because of such dispute a prior intimation was given by the appellants to the Police on 22/06/2021 about the threats given by the complainant.

7. As *prima-facie* no incriminating material is available against the appellants, which would attract the provisions of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 and further as the appellants were granted *ad-interim* protection and they have not misused the liberty and further as nothing has been pointed out

why the custody of the appellant is necessary, I am of the opinion that the order dated 04/10/2021 needs to be confirmed. Accordingly I pass the following order:

- i) The Criminal Appeal is allowed.
- ii) The Order dated 16/09/2021 passed by Additional Sessions Judge, Mehkar, District : Buldana in Criminal Bail Application No. 149 of 2021 is hereby quashed and set aside..
- iii) The Order dated 04/10/2021, granting *ad-interim* anticipatory bail to the appellants is hereby confirmed with modification that the appellants shall attend the concerned Police Station as and when their presence is required.
- iv) Fees of the appointed counsel shall be paid as per the Rules.

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

JUDGE

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