

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

CRIMINAL APPEAL NO. 420 OF 2021

1. Ramkrushan S/o Champatrao Waghare,
Aged about 74 years, Occ.:- Retired Teacher
2. Sachin S/o Ramkrushna Waghade
Aged 28 Years, Occ. Student
3. Suhas S/o Ramkrushna Waghade,
Aged 30 years, Occ. Student
All R/o Ghatladki, Taluka Chandur Bazar,
District Amravati. **APPELLANTS.**

// VERSUS //

1. The State of Maharashtra,
through Police Station Officer,
Police Station Bramhanthadi,
Dist. Amravati
2. Sau. Vandana W/o Shankarrao Mahure,
Aged 48 years, Occ. Housewife,
R/o Ghatladki, Taluka-Chandur Bazar,
District Amravati. **RESPONDENTS.**

Shri Akshay Sudama, Advocate for Appellants.
Shri S.D.Sirpurkar, A.P.P. for Respondent No.1/State.

CORAM : ANIL S. KILOR, J.
DATED : 24th MARCH, 2022.

ORAL JUDGMENT :

Heard.

2. **ADMIT.**

3. This appeal is arising out of the order dated 30th September, 2021 passed by the District Judge-2 and Additional Sessions Judge, Achalpur in Criminal Bail Application No. 537 of 2021 rejecting application of the appellants for grant of bail.

4. Shri Sudama, learned counsel for the appellant submits that there is a long standing dispute between the appellants and the complainant and the First Information Report is the out come of the same.

5. It is submitted that the chargesheet has already been filed and there is no material to show that the appellants have abused on caste of the complainant or committed the alleged act only because the complainant belongs to Scheduled Caste. He therefore submits that no offence under the Atrocities Act attracts in this case and therefore, bar under Section 18 of the Atrocities Act would not come in the way of appellants for grant of anticipatory

bail.

6. Shri Sirpurkar, learned Additional Public Prosecutor opposes the application. He submits that as there are allegations made in the First Information Report which attract the offence under Atrocities Act. This Court may not consider this application for grant of pre-arrest bail.

7. I have perused the case diary and also contents of the First Information Report.

8. There is only one independent witness who is eye witness and who was present at the time of incident. The said statement does not corroborate the case of the prosecution as far as the allegations that the appellants abused the complainant on her caste.

9. On perusal of the case diary, I have not found anything from where it can be gathered that the alleged act was committed by the appellants only because the complainant belongs to Scheduled Castes. *Prima-facie*, there is no incriminating material available on record to attract the provisions of Atrocities Act and, therefore, bar under Section 18 would not attract in this case.

10. The complaint of the appellants to the Gram Panchayat about the constructions which was undertaken by the husband of the complainant, shows that there was dispute between the complainant and the appellants. In that view of the matter, I am of the opinion that appeal needs to be allowed by confirming the order granting ad-interim anticipatory bail. Accordingly, I pass the following order.

ORDER

1. The Criminal Appeal is **allowed**
2. The order dated 30th September, 2021 passed by District Judge-2 and Additional Sessions Judge, Achalpur in Criminal Bail Application no. 537 of 2021 is hereby set aside.
3. The order dated 8th October 2021 is confirmed with modification that the appellants shall attend the concerned police station as and when their presence are required.
4. The Criminal Appeal stands **disposed of** accordingly.

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SACHINDANAND
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Date: 2022.03.25
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JUDGE

S.K.Nair