

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

CRIMINAL APPEAL NO. 544 OF 2021

1. Shri Gulab S/o. Pandhari Baghe,
Age- 26 Yrs., Occ: Agriculture,
2. Shri Pandhari S/o. Devidas Baghe,
Age- 52 Yrs., Occ: Agriculture,
3. Shri Kailas S/o. Pandurang Baghe,
Age- 35 Yrs., Occ: Agriculture,

All are R/o. At – Pedka Patonda,
Tah – Kamgaon, Dist. Buldhana.

.... **APPELLANTS.**

// VERSUS //

1. The State of Maharashtra,
Through Police Station Officer,
Khamgaon (Rural) Police Station,
Tah. Khamgaon, Dist. Buldhana.
2. Smt. Mangala W/o. Sanjay Tayade,
Age- 27 Yrs., Occ. : Labour,
R/o. At – Pedka Patonda,
Tah – Kamgaon, Dist. Buldhana.

.... **RESPONDENTS.**

Shri S.N.Nandeshwar, Advocate for Appellants.
Shri S.D.Sirpurkar, A.P.P. for the respondent/State.

CORAM : ANIL S. KILOR, J.
DATED : APRIL 07, 2022.

ORAL JUDGMENT :

1. In this appeal the order dated 08/12/2021 passed by Additional Sessions Judge, Khamgaon, District : Buldana in A.B.A. No.505 of 2021, rejecting application for grant of pre-arrest bail is under challenge.

2. In this case, there are counter FIRs namely Crime No. 425 of 2021 and the present F.I.R. i.e. Crime No. 423 of 2021, registered with Police Station Khamgaon (Rural), District : Buldana. In both the FIRs the alleged incident is of 29/10/2021 and the F.I.R. came to be lodged on 26/11/2021 i.e. after more than one month. While considering the Criminal Appeal No. 550 of 2021 arising out of Crime No.425 of 2021, this Court has observed that the complaint was lodged out of political rivalry between the two groups. This Court allowed the said Criminal Appeal and granted pre-arrest bail to the accused persons in the said crime.

3. I have heard the learned counsel for the appellants and the learned A.P.P. None for the respondent No.2, though served.

4. In the case in hand, I have perused the case diary and also the contents of the F.I.R. The alleged incident is dated 29/10/2021, whereas the complaint was lodged on 26/11/2021 i.e. after more than one month. However, no justifiable explanation has been offered by the complainant for delay in lodging the F.I.R. It is further improbable that all the accused persons in chorus, while abusing the complainant on caste, have used the same words at the same time. This fact is sufficient to *prima-facie* arrive at the conclusion that the present F.I.R. is outcome of the political rivalry. In that view of the matter, as there is no *prima-facie*, incriminating material available to corroborate the allegations attracting the provisions of the Atrocities Act, the bar under Section 18 of the Atrocities Act would not come in the way of the appellants. Furthermore, as the custodial interrogation is not necessary in this

case, I am of the opinion that the appeal needs to be allowed.

Accordingly, I pass the following order:

- i) The Criminal Appeal is allowed.
- ii) The order dated 08/12/2021, passed by learned Additional Sessions Judge, Khamgaon in A.B.A. No.505 of 2021, is hereby quashed and set aside.
- iii) The order dated 16th December 2021, granting ad-interim anticipatory bail, is hereby confirmed with modification that the appellants shall attend the concerned Police Station, as and when their presence is required.

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

(ANIL S. KILOR, J)

RRaut...