

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

CRIMINAL APPEAL NO. 550 OF 2021

1. Shridhar Murlidhar Raut,
Aged about 55 years, Occ. Agriculturist,
 2. Ganesh Uttam Kawale,
Aged about 41 years, Occ. Agriculturist,
 3. Baliram Gyandearao Raut,
Aged about 44 years, Occ. Agriculturist,
 4. Pawan Prakash Raut,
Aged about 21 Years, Occ. Education
R/o Pedhka Patonda, Tq. Khamgaon,
Dist. Buldhana
- **APPELLANTS.**

// **VERSUS** //

1. The State of Maharashtra,
through Police Station Officer,
Shegaon, Tq. Shegaon, Buldhana.
 2. Pushpabai Anil Jadhav,
Aged 39 years, Occ. Sarpanch
R/o Pedhka Patonda,
Tq. Khamgaon Rural,
District Buldhana
- **RESPONDENTS.**

WITH
CRIMINAL APPEAL NO. 557 OF 2021

1. Gajanan Madhukar Tayde
Aged about 26 years, Occ. Agriculturist,
2. Vijay Dinkar Tayde,

Aged about 37 years, Occ. Agriculturist,

3. Rahul Samadhan Tayde
Aged about 28 years, Occ. Agriculturist,
4. Bhaskar Daulat Tayde
Aged about 62 Years, Occ. Agriculturist
5. Madhukar Daulat Tayde,
Aged about 58 Years, Occ. Agriculturist,
R/o Pedhka Patonda, Tq. Khamgaon,
Dist. Buldhana

.... APPELLANTS.

// VERSUS //

1. The State of Maharashtra,
through Police Station Officer,
Police Station Khamgaon Gramin,
Tah. Khamgaon, District Buldhana
2. Sou. Pushpabai Anil Jadhav,
Aged 38 years, Occ. Sarpanch
R/o Pedhka Patonda,
Tq. Khamgaon Rural,
District Buldhana

.... RESPONDENTS.

Shri S.V.Sirpurkar, Advocate for Appellant in Criminal Appeal
No.550 of 2021.

Shri M.R.Deshmukh, Advocate h/f S.K.Wankhede in Criminal Appeal
No. 557 of 2021

Shri S.D.Sirpurkar, A.P.P. for Respondent No.1/State in both the appeals.

CORAM : ANIL S. KILOR, J.
DATED : 31st MARCH, 2022.

ORAL JUDGMENT :

Heard learned counsel for the respective parties in both the Criminal Appeals.

2. **ADMIT.**

3. The appellants are challenging the order below Exh.1 passed by the learned Additional Sessions Judge, Khamgaon, District Buldhana dated 7th December, 2021 passed in Anticipatory Bail Application Nos. 502 of 2021 and 511 of 2021, rejecting the anticipatory bail applications of the appellants in Crime No. 425 of 2021 registered with Police Station Khamgaon (Rural) for the offence punishable under Sections 143, 146, 147, 149, 323, 504, 506 of Indian Penal Code and Section 3(1)(r), 3(2)(va) of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act.

4. I have heard Shri S.V.Sirpurkar, learned counsel for the appellants in Criminal Appeal No. 550 of 2021, Shri M.R.Deshmukh, learned counsel for the appellants in Criminal Appeal No. 557 of 2021 and learned Shri S.D.Sirpurkar, learned Additional Public Prosecutor in both the appeals. None for the respondent no.2, though served.

5. Shri Sirpurkar, learned counsel for the appellants in Criminal Appeal No. 550 of 2021 submits that offence came to be lodged out of political rivalry in order to falsely implicate the appellants in this case. It is further submitted that the alleged incident took place on 29th October, 2021 at about 11 am whereas the report came to be lodged on 26th November, 2021 i.e. after about one month.

6. He submits that as there is no *prima facie* material available on record to show the involvement of the appellants, bar under Section 18 of the Atrocities Act would not come in the way of the appellants.

7. He submits that as far as other offences are concerned, the custody of the appellants are not necessary as the appellants have been attending the police station as per one of the conditions imposed while granting ad-interim bail by this Court on 16th December, 2021 in Criminal Appeal No. 550 of 2021 and 18th December, 2021 in Criminal Appeal No. 557 of 2021.

8. Shri Deshmukh, learned counsel for the appellants in

Criminal Appeal No. 557 of 2021 reiterated the submission of Shri, Sirpurkar.

9. Learned Additional Public Prosecutor strongly opposed the present criminal appeals and prays for rejection of the same.

10. I have perused the case diary. The statement of the witnesses recorded by the Investigating Officer during the investigation show that all the appellants with chorus uttered the same words at the same time abusing the complainant on her caste.

11. The contents of the First Information Report is sufficient to show that the complainant is the Sarpanch and it appears that during the meeting of Gram Panchayat, the dispute arose between the complainant and the appellants. That the incident is of dated 29th October, 2021, whereas the report was lodged after about one month i.e. 26th November, 2021. No justifiable explanation has been offered for such delay.

12. As far as the allegations attracting provisions of Atrocities Act are concerned, *prima facie* it is highly improbable that all the appellants in chorus by uttering same words at the same

time abused the complainant on her caste. Thus, according to me, *prima facie* there is no incriminating material available to corroborate the allegations attracting the provisions of the Atrocities Act and therefore, bar under Section 18 would not come in the way of appellants, in these appeals.

13. As far as other offences are concerned, the custodial interrogation of the appellants is not necessary and accordingly, I am of the opinion that the appellants are entitled for pre-arrest bail. Accordingly, I pass the following order.

ORDER

- i. The Criminal Appeal Nos. 550 of 2021 and 557 of 2021 are allowed.
- ii. The impugned judgment and order dated 7th December, 2021 passed by the Additional Sessions Judge, in Anticipatory Bail Application Nos. 502 of 2021 and 511 of 2021 are hereby quashed and set aside.

- iii. The order granting ad-interim anticipatory bail dated 16th December, 2021 in Criminal Appeal No. 550 of 2021 and 18th December, 2021 in Criminal Appeal No. 557 of 2021 are confirmed with modification that the appellants shall attend the concerned Police Station as and when their presence is required.
- iv. Both the Criminal Appeals are disposed of accordingly.

JUDGE

S.K.Nair

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