

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

CRIMINAL APPEAL NO. 577 OF 2021

1. Gangaram alias Guddu S/o.Tannumal
Karda, Aged about 49 years, Occ.: Business,
 2. Aman S/o. Gangaram Karda,
Aged 26 years, Occ. : Business,
- Both R/o. Karda Lane, Sindhi Colony,
Gondia.

.... **APPELLANTS.**

// VERSUS //

1. The State of Maharashtra,
through PSO Goregaon,
District : Gondia.
2. Raman S/o. Hiralal Badge,
Aged 42 years, Occ: Guard,
Tahsil : Goregaon, District : Gondia.

.... **RESPONDENTS.**

Shri R.M.Daga, Advocate for Appellant.
Shri M.J.Khan, A.P.P. for Respondent/State.
None for Respondent No.2.

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

ORAL JUDGMENT :

1. Heard learned counsel for the appellant and learned A.P.P. for the respondent/ State. None for the respondent No.2, though served.

2. **ADMIT.**

3. This appeal is arising out of rejection of pre-arrest bail vide order below Exh.1, dated 22/12/2021 passed by learned District Judge-2 and Additional Sessions Judge, Gondia in Misc.Criminal Bail Application No.351 of 2021.

4. Shri Daga, learned counsel for the appellant submits that though the Investigating Officer has made a categorical statement before the Sessions Court that custodial interrogation of the appellant is not necessary and further it is also observed that possibility of false implication cannot be ruled out, the application for grant of pre-arrest bail was rejected. It is submitted that there was a delay in lodging the First Information Report and after filing of the application for anticipatory bail the report came to be lodged. He, therefore, submits that it can be derived from the material available on record that the complaint is lodged to falsely implicate the appellant in the alleged offence.

5. On the other hand, Shri M.J. Khan, learned A.P.P. strongly opposed the application and points out from the case diary a statement of one of the witnesses recorded and submits that there is *prima-facie* material against the appellant.

6. On going through the case diary and after considering the contents of the First Information Report and also the findings recorded by the learned Sessions Court, it is clear that the Investigating Officer has specifically stated that the custodial interrogation of the applicant is not necessary. Further, the learned trial Court has also expressed the possibility of false implication of the appellant in the alleged offence.

7. In that view of the matter and as *prima-facie* incriminating material is not available against the appellant, I am of the opinion that the present appeal needs to be allowed. Hence, I pass the following order:

- i) The Criminal Appeal is allowed.
- ii) The order dated 22/12/2021 passed below Exh.1 by the District Judge-2 and Additional Sessions Judge, Gondia in Misc. Criminal Bail Application No.351 of 2021 is set aside.

- iii) In the event of arrest of the appellants in connection with Crime No. 564 of 2021, registered with respondent No.1 Police Station for the offences punishable under Sections 504 and 506 of the Indian Penal Code and Sections 3(1) (r),(s), 3(2)(va) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989, they shall be released on bail on executing P.R. Bond of Rupees Fifteen Thousand each with one solvent surety for each of the appellants.
- iv) The appellants shall attend the concerned Police Station as and when their presence is required.

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

JUDGE

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