

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

CRIMINAL APPEAL NO. 162 OF 2023

1. Patilsaheb Babasaheb Misal
2. Praful Babasaheb Misal
3. Ajinath Parmeshwar Andhale
4. Navnath Parmeshwar Andhale .. Appellants

Versus

The State of Maharashtra and another .. Respondents

Mr. Rajendra K. Jadhavar, Advocate for the Appellants.

Smt. D. S. Jape, APP for Respondent No. 1.

Mr. Chaitanya S. Deshmukh, Advocate for Respondent No. 2.

CORAM : KISHORE C. SANT, J.

DATED : 13th APRIL, 2023.

P. C. :-

. Heard learned advocates for the parties.

2. The appellants have approached this Court challenging an order passed by the learned Additional Sessions Judge – 2, Ambad, District Jalna dated 15.02.2023 thereby rejecting their application seeking bail in the event of arrest in connection with Crime No. 40/2023 registered with Gondi Police Station for the offences punishable under Sections 504, 506, 427 r/w Section 34 of the Indian Penal Code (for short

“I.P.C.”) and Sections 3 (1) (r) and 3 (1) (s) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act (for short “Atrocities Act”).

3. The respondent No. 2/informant lodged a report with the Police Station on 30.01.2023 in respect of incident dated 23.12.2022. It is alleged that, on 23.12.2022 at 8.00 a.m. in the morning they found that the seeds of sugarcane that were laid for sowing was disturbed. On that, they asked the accused persons who happens to be owner of adjoining land. On that, the accused persons started abusing in the name of caste. The specific allegation is seen against Praful Babasaheb Misal that he abused in the name of caste. It is further alleged that all the accused persons thereafter threatened the informant of dire consequences. On that, a complaint was lodged after seven days.

4. It is submitted by the learned advocate for the appellants that, in fact, there is a dispute in respect of possession of land. The complaint was also lodged by Praful in the Police Station Ambad on 23.11.2022 and 23.01.2022 as the informant and his family members are giving threat about the possession over the land. Even there is a suit filed by the informant and his son bearing R.C.S. No. 65/2022 pending in the Court of learned C.J.J.D., Ambad wherein, injunction is sought against the accused persons not to disturb the possession of the informant on

the land. He submits that, on the date of offence Patilsaheb was on duty who is working as teacher in the school which is more than 100 Km. from the spot of incident and there is certificate issued by the Headmaster which is at page no. 32. He submits that, entire incident is concocted. No offence has taken place as alleged. There are no specific allegations against any of the accused persons and prays for bail.

5. Learned A.P.P produces the police papers on record. It shows that the accused Praful was on leave on the date of incident. So far as Patilsaheb is concerned, he was found to be on duty on the date of incident. She opposes the appeal stating that the offence is clearly made out against the accused persons.

6. Learned advocate for respondent No. 2 also opposes the appeal vehemently stating that clearly a case is made out. So far as delay is concerned in lodging the FIR, he submits from his affidavit that, in fact, the incident was immediately reported on the next date on 24.12.2022 to the Police, however, the Police did not take cognizance and the complaint was therefore referred to higher authorities and then only thereafter the FIR was lodged. He submits that, in fact all the accused persons have abused in the name of caste. The civil dispute is pending in the Court and it is for this reason the accused have threatened the

informant.

7. Considering the facts and the judgment cited by the learned advocate for the appellants of the Hon'ble Apex Court in a case of Hitesh Verma Vs. State of Uttarakhand reported in 2021 Cri.L.J. 1 SC wherein, it is held that, when there is purely a dispute of civil nature, though the allegations are made in the name of caste, it cannot be taken that the abuses are given only to insult the informant as they belong to scheduled caste. In such cases, no offence can be said is made out under the Atrocities Act. This Court finds that, in this case, clear allegations are made only against Praful. Even the police report now shows that he was on leave on the date of incident. So the submission is that he was in service and was on duty on that day cannot be accepted. So far as Patilsaheb is concerned, though there is allegation of abusing the informant in the name of caste, it is general in nature. Against Ajinath and Navnath that is appellant Nos. 3 and 4, there are no allegations that they have abused in the name of caste. This Court finds that, the criminal appeal can partly allowed by granting protection to appellant No. 1 – Patilsaheb, Appellant No. 3 – Ajinath and appellant No. 4 – Navnath. Hence, the following order.

8. The Criminal Appeal is partly allowed in respect of appellant No. 1 – Patilsaheb, Appellant No. 3 – Ajinath and appellant No. 4 – Navnath.

9. The appellant No. 1 – Patilsaheb, Appellant No. 3 – Ajinath and appellant No. 4 – Navnath be released on bail in the event of arrest on executing PR. bond and solvent surety in the sum of Rs. 15,000/- (Rs. Fifteen Thousand only) each in connection with FIR No. 40/2023 dated 30.01.2023 registered with Gondi Police Station for the offences punishable under Sections 504, 506, 427 r/w Section 34 of the I.P.C. and Sections 3 (1) (r) and 3 (1) (s) of the Atrocities Act.

10. The appellants shall attend the police station as and when required by the Investigating Officer. Appellants shall not tamper with the evidence and shall not try to contact any of the witnesses.

11. Appeal to the extent of appellant No. 2 – Praful stands rejected.

12. At this stage, learned advocate for the appellants submits that liberty be granted to appellant No. 2 – Praful to surrender before the learned Sessions Court and till then he may be protected. He submits that, there is protection granted by this Court, the same be continued for a period two (02) weeks from today to the extent of appellant No. 2 – Praful.

13. Considering the fact that, the interim protection is running since the date of issuance of notice, the same shall be continued for a period of two (02) weeks from today.

14. The criminal appeal stands disposed off.

(KISHORE C. SANT, J.)

RS.B.