

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

963 CRIMINAL APPEAL NO. 639 OF 2022

**PRAVIN S/O. SOPAN @ SOPANRAO KURUMKAR,
VS**

THE STATE OF MAHRASHTRA AND OTHERS

Mr. Abasaheb D. Shinde, Advocate for the appellant

Mr. Y. G. Gujrathi, APP for the respondents/State

Mr. Prakash B. Shirsath, Advocate for the respondent No.2

CORAM : KISHORE C. SANT, J.

RESERVED ON : 23rd November, 2022

PRONOUNCED ON : 16th January, 2023

P. C.

1. The appellant has approached this court seeking his release on bail in connection with Crime No.600 of 2022 registered with Shrigonda Police Station, Tq. Shrigonda, Dist. Ahmednagar dated 02-08-2022 for the offences punishable under Section 323, 324, 504, 506, 143, 147 and 149 of the Indian Penal Code and Sections 3(1)(r), 3(1)(s) and 3 (2)(va) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act.

2. The application filed by the present appellant came to be dismissed by an order dated 20-08-2022 below Eh.1 in Criminal (Bail) M. A. No. 590 of 2022 by the learned Additional Sessions Judge, Shrigonada.

3. Respondent No.2 lodged the information on 02-08-2022 against the present appellant and others stating that he sold his land/property admeasuring 40-R from the Gut No. 236 to one Bapu Baba Mane by executing sale deed. The appellants have a land adjacent to the said land. There is a dispute in respect of the boundaries of the land. Since, there was a dispute an application was made to the land record department for measurement as the land was to be handed over after that. The officers from the land record came to the land for the purpose of measurement along with police persons. At that time, it is alleged that present appellant and others came there. The accused persons abused the informant in the name of caste and insulted him. They also abused the purchaser Bapu Baba Mane, Uday Mane. The present appellant also assaulted the Uday Mane by shovel on the head. When the informant went to said Uday the accused persons again assaulted him by giving fist and kick blows. They threatened the informant and the purchaser that he will kill them if they come again to take possession. On the basis of this information a crime came to be registered. The present

appellant along with others filed an application bearing Criminal (Bail) M. A. No. 590 of 2022 in the court of Sessions Judge, Shrigonda. The learned Sessions Judge, Shrigonda partly allowed the application and allowed the bail in the event of arrest of all the accused except the present appellant. It is thus the appellant is before this court.

4. The learned advocate for the appellant vehemently submits that there is a civil dispute which is given a colour of criminal case. Complaint is lodged since there is a dispute in respect of boundaries of the land. A crime is registered on the false information. There was no question of giving abuses to the informant and the purchaser in front of the Government Officers and that too in the presence of police officers etc. It is further contention that even the allegations about assault by shovel, there is no specific allegations as to who exactly abused in the name of caste as in the FIR given the wording is that all the accused persons abused the informant. No specific role is attributed. He submits that there are no ingredients attracting the ingredients of offence under the Atrocities Act.

5. As against this the learned advocate for the respondent No. 2 vehemently opposed the application stating that the offence is clearly made out. There was clear motive to insult the informant. The incident is corroborated by the fact that there is injury caused to son of the Bapu Mane.

6. Learned APP for the respondents/State has produced on record papers of investigation. It is seen that on 02-08-2022 measurement was scheduled and notice was given to the parties apprehending some untoward incident and for that reason even the police protection was given. From the statement it is seen that there are statements of the independent persons stating about the alleged incident. It thus appears from the police papers that because of civil dispute there was no reason for the appellant to assault the informant. The statements of the police who were present at the spot also show that because of the dispute and because of altercation that took place the measurement could not take place on that day. It does appear that accused persons did not even allow the persons from the

land record to carry out the work of measurement and therefore, even a complaint was lodged under Section 353 of the IPC. There is also a statement of the injured witnesses which supports the case of the informant.

7. Thus, taking into consideration all the statements it is clear that the incident as alleged has taken place. Independent witness i.e. person from the land record office also have given statement about the said incident. In the police papers there is a certificate issued by the Rural Hospital, Shrigonda in respect of two injuries on the left side of scalp on head and left knee of Bapu. One is caused by sharp and hard object and other is by hard and blunt object.

8. On going through all the documents it is seen that learned Sessions Judge has rightly rejected the bail to the present appellant.

9. Considering that the alleged incident has taken place in the presence of the government officials and also police

persons clearly shows the gravity of the offence and that the appellant has not paid heed even to the request of the government officials and the police, clearly a case is made out under the Atrocities Act. Since the case is made out this court has to consider that in view of Section 18 and 18-A of the Atrocities Act a bar is clearly attracted and thus this court need not entertain the appeal. The Hon'ble Apex Court in the case of *Vilas Pandurang Pawar and another Vs State of Maharashtra and others reported in (2012) 8 SCC 795* and *Prathvi Raj Chauhan Vs Union of India and others reported in (2020) 4 SCC 727* has clearly held that when an offence is made out under the Atrocities Act then the provision of Section 438 of the Cr. P. C. cannot be invoked.

10. Considering the above, this court finds that no case is made out to entertain the appeal and same is dismissed and disposed off.

[KISHORE C. SANT, J.]

11. At this stage request is made by the learned advocate

for the applicant that there is interim relief running since September, 2022, same be continued. Though it is opposed by the learned advocate for the respondent, interim relief to continue for a period of two weeks only from today.

[KISHORE C. SANT, J.]

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