

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPEAL NO. 775 OF 2023

Gangadhar Mahalappa Patne,
Age : 82 years, Occu. Agriculture,
R/o. Chotigalli, Biloli,
Tal. Biloli, Dist. Nanded,
At present : Patne Niwas, Shivaji Nagar, Nanded. ... **Appellant**

Versus

- 1] The State of Maharashtra.
- 2] Sau. Masanbai w/o Somnath Patne
Age : 65 years, Occu. Household,
R/o. Deshmukh Nagar, Biloli,
Tal. Biloli, Dist. Nanded. ...**Respondents**

...
Shri. Ravindra B. Narwade Patil – Advocate for Appellant
Shri. V. S. Badakh – APP for respondent/State
....

CORAM : R. M. JOSHI, J.
DATE : 03RD OCTOBER, 2023

PER COURT :

1. This Appeal is filed under Section 14-A of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act [hereinafter referred to as 'Atrocity Act'] against the order dated 21.08.2023 passed by the learned Special Judge (SC ST), Biloli thereby rejecting the application filed by the

appellant for anticipatory bail in connection with Crime No.141/2023 registered with Biloli Police Station for the offences punishable under Section 506 of the Indian Penal Code and Sections 3(1)(r), 3(1)(s) and 3(2)(va) of the Atrocity Act with a further prayer for grant of anticipatory bail.

2. First informant is the sister-in-law of the applicant who claims that, the incident in question had occurred on 04.05.2023 at about 11:00 a.m. when the applicant threatened informant asking as to why she wants share in his property and also insulted her over her caste.

3. Learned counsel for the appellant submits that there is an inordinate delay of three months in lodging the First Information Report. According to him, there are disputes between the parties and the Special Civil Suit No. 18 of 2023 has been filed by the husband of the informant seeking share in the properties against the applicant and others. It is further submitted that the appellant had lodged several complaints with the police about the threats being received by him from the son of the informant of lodging complaint under the provisions of Atrocity Act. It is submitted that by way of pressurizing tactics,

the present false report has been lodged.

4. Learned counsel for the respondent and the learned APP opposed the application. It is the contention of the learned counsel for the informant that there is no delay in lodging the FIR as the present applicant being Ex - Member of Legislative Assembly and Advocate, has pressurized the police for not recording the report made by the informant and hence a private complaint was required to be filed on 29.05.2023. It is submitted that it is only thereafter the concerned Police Station has lodged the report and hence it cannot be said that there is any deliberate delay on the part of the informant in lodging of the report. He further submitted that the appellant is pressurizing witnesses and a complaint in this regard is lodged on 07.09.2023 by one of the witnesses to the incident. He also drew attention of this Court to the news published in the newspaper belonging to the present applicant, which contains false and defamatory information about the informant.

5. *Prima facie* perusal of the record reveals that there are disputes between the parties over the share in the property.

The filing of the suit by the husband of the informant seeking share in the property supports the said contention. There is no dispute about the fact that the alleged incident has occurred on 04.05.2023 whereas; the complaint to the Magistrate was sought to be lodged on 29.05.2023. Even accepting the contention of the learned counsel for the informant that the police have refused to record the report lodged by the informant, still the complaint to the Magistrate has been lodged after about 25 days of the occurrence of the incident. Such delay cannot be ignored more particularly in the light of the disputes between the parties. The appellant has placed on record complaints made by him to the police station out of which one complaint indicates that son of the informant threatened of lodging report invoking the offence under the provisions of Atrocity Act.

6. Pertinently, record indicates that real brother of Appellant was married to informant in year 1985/86, however, till lodging of present FIR there is nothing to indicate that appellant abused/insulted her over her caste anytime before. Such allegation is coming up for first time after lapse of long period

and in backdrop of properly dispute. Having regard to these facts coupled with delay in lodging report, this court is of the considered view that the possibility of false implication of the appellant in the offence in question cannot be ruled out. Once the doubt is created about the genuineness of the occurrence of the incident, the bar under Section 18 of the Atrocity Act would not attract. Nothing is to be recovered from the appellant. He is not likely to abscond. Hence, the following order.

ORDER

- (i) The Appeal is allowed.
- (ii) Impugned order dated 21.08.2023 passed by the learned Special Judge (SC ST), Biloli, stands quashed and set aside.
- (iii) In the event of arrest of applicant, namely, Gangadhar Mahalappa Patne in connection with Crime No. 141/2023 registered with Biloli Police Station for the offences punishable under Section 506 of the Indian Penal Code and Sections 3(1)(r), 3(1)(s) and 3(2)(va) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, he be released on bail on his furnishing PR Bond of Rs.15,000/- (Rs. Fifteen Thousand only) with one solvent surety in the like amount.

- (iv) He shall attend the concerned police station once in a week till filing of charge-sheet.
- (v) He shall not contact the witnesses directly or indirectly.
- (vi) He shall not interfere with the evidence in any manner whatsoever.
- (vii) He is further directed to cooperate with the investigating agency for further investigation.

[R. M. JOSHI]
JUDGE