

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

7 CRIMINAL APPEAL NO.749 OF 2022

**CHANDRAKANT KONDCI SHINDE AND OTHERS
VERSUS
THE STATE OF MAHARASHTRA AND ANOTHER**

Sunita R. Shinde, Advocate for the appellants
Mr. A. B. Salve, Advocate for respondent No.2

CORAM : KISHORE C. SANT, J.

DATE : 09th JANUARY, 2023

P. C.

1. Heard the learned advocate for the parties.
2. By way of this appeal, the appellants are praying for their release on bail in connection with the offence Crime No. 183/2022 registered with Mukramabad Police Station, Tq. Mukhed, Dist. Nanded for the offences punishable under Sections 324, 504, 506 read with Section 34 of the Indian Penal Code and Section 3(1)(r), 3(1)(s) and 3(2)(va) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act.
3. Respondent No.2 lodged an FIR in respect of incident that was took place on 01-08-2022. The informant is elected as Sarpanch of village Kalambar (Devache), Tq. Mukhed, Dist. Nanded. Accused No.1 i.e. appellant No.1 is Upsarpanch of

the same village. On the day of incident, a meeting was called by the Grampanchayat. However, Gramsevak had not issued notices about the said meeting and therefore, meeting was required to be cancelled. After meeting was cancelled at around 11.00 am the informant was standing outside of the Grampanchayat office. Appellant No.1 abused her in the name of caste and insulted her saying that she does not know how to work as Sarpanch and she does not deserve to be a Sarpanch of the village. Brother and mother of the informant came near the spot of the incident looking as they saw that altercation is going on between the complainant and the accused. Brother tried to intervene and therefore, getting annoyed of this, the appellants even assaulted brother of the complainant. They even gave threats to the mother of the informant and beaten her with kicks and blows. Thereafter, it is alleged that the appellants further abused the informant in the name of caste. Since the brother of the informant was injured, she lodged an FIR after brother was treated by Doctor.

4. It is argued by the learned advocate for the appellants that the ingredients of the offences under the Atrocities Act are not attracted. Allegations are made only because of the fact that the present appellant No.1 has made a complaint to the Caste Scrutiny Committee, Aurangabad stating that the informant does not belong to the tribe namely Mahdeo Koli and she has obtained said certificate by misleading the authorities etc. It is, therefore, submitted that getting annoyed

because of this the complaint before the Caste Scrutiny Committee, Aurangabad, now the informant as a counter blast lodged the complaint under the Atrocities Act. No case is made out attracting the said sections. He further submits that the proceeding before the Caste Scrutiny Committee is still pending and till then, the informant cannot be considered to be belonging to the Scheduled Tribe. The appellants invited my attention to the record of one Madhav Ramrao Bapune, paternal uncle of Res. No.2 whose caste is shown as OBC in the service book to submit that the informant does not belong to scheduled tribes.

5. Respondent No.2 vehemently opposed the bail application stating that at this stage no conclusion can be drawn as to whether informant belongs to a scheduled tribe or not. This question can be gone into only at the stage of trial. He further submits that from reading of an FIR itself it is clear that offences are clearly attracted and therefore, no bail be granted to the appellants.

6. Learned APP for the respondents/State produced on record the investigation papers from which it appears that the brother of the informant suffered only simple injuries.

7. However, looking to the FIR and police papers it is clear that clearly an offence is made out against the appellants under Section 3(1)(r)(s) and 3(2)(va) of the Atrocities Act.

Learned APP for the respondents/State submits that when the offence is clearly made out no bail be granted to the appellants. He submits that investigation is over. The police papers further show that accused are not found on the given address and therefore, they are not yet arrested. There is even an order issued by the Sub-Divisional Police Officer, Sub-Division, Deglur wherein it is stated that this authority itself is carrying investigation. However, the accused persons are not found.

8. Thus, considering the submission and the police papers it is clear that offence is made out attracting ingredients of the offence under the Atrocities Act. In view of section 18 and Section 18-A of the Atrocities Act there is bar to consider the application for anticipatory bail when the offence is made out. Considering the above, this court finds that the appeal deserves to be dismissed and therefore, is hereby dismissed.

[KISHORE C. SANT, J.]

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