

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

CRIMINAL APPEAL NO. 95 OF 2023

Jayeda Mirasahab Sayyed And Anr. ...Appellants
Versus
State Of Maharashtra And Anr. ...Respondents

WITH

CRIMINAL APPEAL NO. 65 OF 2023

Balaji Dinkar Patil ...Appellant
Versus
State Of Maharashtra And Anr. ...Respondents

WITH

CRIMINAL APPEAL NO. 113 OF 2023

Indrajeet Nagappa Landge ...Appellant
Versus
State Of Maharashtra And Anr. ...Respondents

....

Mr. Sanjeev P. Kadam a/w Mr. Mayur G. Sanap, Mr. Pratik Deshmukh
i/by Mr. Prashant Raul, Advocate for the Appellant.

Mr. Sushan Mhatre, Advocate for Respondent No.2.

Ms. Pallavi N. Dabholkar, APP for the Respondent – State.

CORAM : PRAKASH D. NAIK, J.

DATE : 5th JULY, 2023.

PER COURT:

1. All these appeals are preferred under Section 14-A of Scheduled Caste and Scheduled Tribe (Prevention of Atrocities) Act, 1989 (for short 'SC and ST Act'). The Appellants are aggrieved

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by orders passed by the Court of Sessions rejecting their applications for anticipatory bail preferred by them in connection with C.R. No.486 of 2022 registered with Valsang Police Station on 2nd December, 2022 for offences under Sections 307, 323, 342, 353, 504, 506 of Indian Penal Code (for short 'IPC') and Sections 3(1)(r), 3(1)(s), 3(2)(va)(V) of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, (hereinafter referred to as 'Atrocities Act').

2. The complainant has alleged that he was working as bailiff in the Court Civil Judge Senior Division at Solapur. He went to village Hotagi on 2nd December, 2022 to serve a summons on Sonu Ghodke. He could not find that person, hence he visited the office of Grampanchayat. The Appellants are working as Gramsevak and staff of Grampanchayat. The complainant enquired with Gramsevak Patil. He shouted at him. The women working on computer shouted at him and told him to leave the place. She also stated that on the previous occasion the complainant had troubled her. Mr. Patil again shouted. Complainant told him to depute some person from Grampanchayat to locate the house of Sonu Ghodke. He was told that their peon has gone out. Gramsevak caught his collar. He was assaulted by Gramsevak and the aforesaid women

working in Grampanchayat. The Gramsevak abused him on caste. Member of Grampanchayat Mr. Indrajeet Landge came there with others. He was dragged and threatened. Mr. Patil pressed his neck. He was confined. He gave information on phone to main bailiff. Police arrived at the spot.

3. Learned Advocate for the Appellant submitted that the FIR is false. The incident had allegedly occurred in the office of Grampanchayat. The version of complainant is not corroborated by independent witnesses. The complainant had assaulted and outraged modesty of one of the Appellant (Appellant in Criminal Appeal No.95 of 2023). She has lodged the FIR against the Respondent No.2 vide C.R. No.487 of 2022 for offences under Sections 307, 354, 354-B, 323, 504, 506 and 353 of IPC. The Respondent No.2 had preferred an application for anticipatory bail which has been allowed by the Sessions Court. The Appellants are not having any criminal antecedents.

4. Learned APP submitted that specific allegations are attributed to the Appellants. The Respondent No.2 was discharge his duty as a bailiff. He was confined abused and assaulted. The statements of witnesses were recorded. The Respondent No.2 was throttled by Accused. The offences are serious. The Accused had

prevented public servant from discharging his duty.

5. Learned Advocate for Respondent No.2 reiterated the submission of learned APP. It is submitted that there is no reason for the Respondent No.2 to indulge in violence. Complainant was acting as bailiff of the Court. He was discharging duty and visited the village for executing summons on one of the villager. Since he could not be located he had visited the office of Grampanchayat. He was assaulted and abused. He was wrongfully confined. In view of bar under Section 18 of the Atrocities Act the Appellants are not entitled for anticipatory bail.

6. The Appellant in Criminal Appeal No.65 of 2023 is working as Gramsevak in Grampanchayat. He preferred Anticipatory Bail Application No.1588 of 2022 before Sessions Court Solapur. It was rejected by order dated 13th January, 2023. The Appellant in Criminal Appeal No.95 of 2023 is working as computer operator in Hotgi Grampanchayat office. She preferred Anticipatory Bail Application No.1587 of 2022. It was rejected by order dated 13th January, 2023. The Appellant in Criminal Appeal No.113 of 2023 is member of Hotgi Grampanchayat. He preferred Anticipatory Bial Application No.1680 of 2022 which has been rejected by order dated 20th January, 2023. There are two versions of the same

incident. There are cross case registered from both the sides. One of the Accused in the present FIR has lodged the FIR against Respondent No.2 for the offences as stated hereinabove. It appears that the bailiff had visited the office of Grampanchayat. There was quarrel between both the sides. The Accused are Gramsevak, staff and member of Grampanchayat and the complainant is bailiff of the Court. The certificate of injury collected by the Investigating Officer indicate that the complainant in this case had suffered blunt trauma and the injury is of simple nature. The cross case is also registered for offences under Sections 307, 354, 354-B, 323, 504, 506 of IPC. The incident had occurred within the premises of Grampanchayat. Apparently the Accused were not knowing the complainant as he had visited as bailiff of the Court. There was no specific allegations about abuses on caste. Prosecution could not point out statements of independent witnesses regarding abuses on caste. Considering the factual matrix of this case the bar under Section 18 of the Atrocities Act would not be an impediment to grant relief in the nature of Section 438 of Cr.P.C.

ORDER

- i. Criminal Appeal No.95 of 2023; Criminal Appeal No.65 of 2023 and Criminal Appeal No.113 of 2023 are

allowed;

ii. Impugned orders in Criminal Appeal No.95 of 2023 and Criminal Appeal No.65 of 2023 dated 13th January, 2023 and in Criminal Appeal No.113 of 2023 dated 20th January, 2023 are set aside.

iii. In the event of arrest of the Appellants in connection with C.R. No.486 of 2022 registered with Valsang Police Station, the Appellants be released on bail on furnishing P. R. Bond in the sum of Rs.30,000/- each with one or more sureties in the like amount;

iv. The Appellants shall co-operate with the investigation.

v. All Appeals are disposed off.

(PRAKASH D. NAIK, J.)