

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

CRIMINAL APPEAL NO.978 OF 2019

Sachin Mukund Taware

and others

..... Appellants

Versus

The State of Maharashtra

and another

.... Respondents

Mr. Sachin H. Deokar, Advocate for the Appellants.

Mr. S.R. Agarkar, APP for the Respondent No.1-State.

Dr. Vishal Hire, SDPO, Karmala Police Station (IO) is present.

CORAM : SARANG V. KOTWAL, J.

DATE : 09th JANUARY, 2023

P.C. :

1. The appellants have challenged the order dated 9.7.2019 passed by the Additional Sessions Judge, Barshi in Criminal Bail Application No.470/2019. In effect, they are praying for anticipatory bail in connection with C.R. No.411/2019 dated 22.6.2019 registered at Karmala police station, Solapur under Sections 323, 504, 506, 507 read with Section 34 of the Indian Penal Code and under Section 3(1)

(r) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 ('Atrocities Act').

2. Heard Shri Sachin Deokar, learned counsel for the appellants and Shri S.R. Agarkar, learned APP for the respondent No.1-State.

3. The office note shows that the respondent No.2 is duly served. The respondent No.2 has not made any arrangement for representation before the Court. Therefore, I am deciding this appeal finally.

4. The FIR is lodged by the respondent No.2. He has stated that on 21.6.2019, he had gone to the house of one Parmeshwar with his friend for dinner in a religious function. While the guests were taking dinner, all the appellants came there. It is alleged that the appellant Sachin abused the respondent No.2 with reference to his caste. The other appellants also joined him and started assaulting the respondent No.2. They threatened him and they went away. On this basis, the FIR is lodged.

5. Learned counsel for the appellants submitted that the offence is not true. The appellant No.1's wife had lodged her own FIR against the respondent No.2 in respect of the incident dated 21.6.2019, which had taken place in her house. The respondent No.2 had committed the offence attracting the provisions of Section 354 and 354A of IPC and that FIR was lodged vide C.R. No.413/2019 at Karmala Police Station, Solapur.

6. Learned counsel for the appellants submitted that to avoid getting arrested in that complaint, the respondent No.2 went to the police station and made these false allegations before the appellant's wife could reach the police station.

7. Learned APP produced the investigation papers before the Court. The investigation papers include the statements of witnesses Shantaram Godage, Vasudeo Sarade, Narayan Sarde and Rahul Ghanwat. All these eye witnesses have spoken about the scuffle between the respondent No.2 on one hand and the appellant on the other.

However, they specifically stated that they had not heard any abuses with reference to caste hurled at the respondent No.2. The injury certificate shows that there were minor injuries in the nature of blunt trauma suffered by the respondent No.2. The injuries were possible during scuffle. However, the question remains whether the offences under the Atrocities Act are made out.

8. The statements of the eye witnesses suggest that the elements of offences under the Atrocities Act were absent. The ingredients of those offences under the Atrocities Act are not clearly made out. It is extremely doubtful whether the provisions of the Atrocities Act are attracted. The appeal is pending since 2019. Therefore, in such circumstances, at this stage, the appellants can be protected by an order of anticipatory bail.

9. Hence, the following order :

:: O R D E R ::

- i. The appeal is allowed.
- ii. In the event of their arrest in connection with C.R.

No.411/2019 registered at Karmala police station, Solapur, the appellants are directed to be released on bail on their executing P.R. bond in the sum of Rs.30,000/- each (Rupees Thirty Thousand Only) with one or two sureties each in the like amount.

- iii. Criminal Appeal is disposed of accordingly.

(SARANG V. KOTWAL, J.)

Deshmane (PS)