

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

APPEAL NO. 86 OF 2023

DARSHAN
PRAKASH
PATIL

Digitally signed
by DARSHAN
PRAKASH PATIL
Date: 2023.08.08
17:13:27 +0530

Rahul Balasaheb Vyawahare and Anr. ..Appellants
VS.

The State of Maharashtra and Anr. ..Respondents

Mr. Shailesh D. Chavan a/w Pruthviraj Chavan for the
Appellants.

Ms. Megha Bajoria for Respondent No.2.

Ms. Anamika Malhotra, APP for the State.

CORAM : M. S. KARNIK, J.

DATE : AUGUST 7, 2023

P.C. :

1. Heard learned counsel for the appellants, learned
counsel for respondent No.2 and learned APP for the State.

2. For convenience, I reproduce the order dated
02/02/2023 passed by this Court, while granting interim
protection to the appellants during pendency of this appeal:

"1. The Appellants have challenged the order dated
16/01/2023 passed by learned Additional Sessions
Judge, Baramati in Criminal Bail Application No. 1479
of 2022. In effect, the Appellants are seeking
anticipatory bail in connection with C.R.No.986 of
2022 registered at Indapur police station on
24/11/2022, under sections 420, 504 and 506 r/w.
34 of the I.P.C. and U/s.3(2)(va) of the Scheduled
Castes and Scheduled Tribes (Prevention of
Atrocities) Act, 1989 (hereinafter referred to as
'Atrocities Act').

2. Heard Shri. Shailesh Chavan, learned counsel for the Appellants. Smt. Tidke, learned APP for the State/Respondent No.1 does not have instructions and she is seeking adjournment. Therefore, I have heard the parties for consideration of interim relief. It is also necessary to hear the Respondent No.2 before final order is passed, because the F.I.R. is registered under the Atrocities Act.

3. The F.I.R. is lodged by the Respondent No.2. His case is that, he was cultivating 1/3" land admeasuring around 20 Acres belonging to the Appellant No.1. He had supplied the sugarcane to two sugar factories and bill for that sugarcane crop was deposited in the account of the Appellant No.1. It is alleged that the Appellant No.1 was not giving the Respondent No.2's dues. On 23/11/2022, the Respondent No.2 and his wife approached the Appellant No.1 at his petrol pump asking for their dues. It is alleged that the Appellant No.1 and 2 were present there. They abused them and threatened them. On this basis the F.I.R. is lodged.

4. Learned Counsel for the Appellants submitted that the Appellant No.2 has no concern with their dispute. He, submitted that the allegations in the F.I.R. are not true and there is nothing to show that the Appellant No.1 has given 1/3rd part of his land for cultivation to the Respondent No.2. There is absolutely no documentary evidence. He submitted that the F.I.R. is lodged to pressure the Appellants. He further submitted that, no offence under the Atrocities Act is made out. The Respondent No.2 has not approached any Civil forum for the recovery, which according to him was due from the Appellant No.1. He has resorted to filing this F.I.R. to extort money.

5. All these submissions will have to be considered while deciding the Appeal finally. However, based on these submissions, interim relief can be granted to the Appellants, till the next date.

6. Hence, the following order:

O R D E R

- i) Issue notice to the Respondent No.2, returnable on 30/03/2023.
- ii) In the event of their arrest in connection with C.R.No.986 of 2022 registered with Indapur police station, till the next date, the Appellants are directed to be released on bail on their executing P. R. bonds in the sum of Rs.30000/- each with one or two sureties each in the like amount.
- iii) This order shall operate till 30/03/2023.
- iv) The Appellants shall cooperate with the investigation.
- v) Stand over to 30/03/2023."

3. Learned counsel for respondent No.2 while opposing the appeal submitted that though the entire consideration towards the sugarcane crop has been credited to the account of appellant No.1, the share of respondent No.2/complainant has not been transferred/paid as promised. It is the allegations of respondent No.2 that he was cultivating the entire portion of land belonging to the appellants of which the benefit to the extent of $\frac{1}{3}$ share in the proceeds was to be handed over to respondent No.2. It is submitted that in the present case, the offence under Sections 420, 504 and 506 read with 34 of the Indian Penal

Code (IPC) and Section 3(2)(va) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 (for short "Atrocities Act") is clearly attracted. It is submitted that the poor labourer has been cheated and hence the appeal should be dismissed.

4. The reading of the First Information Report (FIR) indicates that the dispute pertains to the recovery of the amount which respondent No.2 says that he is entitled to, from the share in the sale of the sugarcane crop by appellant No.1. Though it is the case that respondent No.2 was cultivating the entire land owned by appellant No.1, there is no document on record to indicate the agreement between appellant No.1 and respondent No.2. The dispute essentially is over the recovery of the dues of respondent No.2 from appellant No.1.

5. In my opinion, the case is made out for granting anticipatory bail, as *prima facie*, from the accusations the bar of Section 18 of the Atrocities Act cannot be said to be attracted. There are hardly any allegations against appellant No.2.

6. In the event of arrest in connection with C.R.No. 986 of 2022 registered with Indapur Police Station, the appellants- Rahul Balasaheb Vyawahare and Laxman Dashrath Umbre, shall be released on bail on furnishing P.R. bond to the extent of Rs.15,000/- each with one or two sureties each in the like amount.

7. The appellants shall furnish their contact numbers and residential addresses to the Investigating Officer and shall keep him updated if there is any change.

8. The appellants shall report to the Investigating Officer as and when called.

9. The appeal is accordingly allowed in the above terms.

10. I appreciate the assistance rendered by Ms. Megha Bajoria who appeared on behalf of respondent No.2 in these proceedings.

(M. S. KARNIK, J.)