

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPEAL NO. 673 OF 2022

Bipinkumar Ramavadh Yadav	...Appellant
Versus	
The State Of Maharashtra And Anr.	...Respondents
WITH	
CRIMINAL APPEAL NO. 674 OF 2022	

Kripashankar Mahabali Yadav And Anr.	...Appellants
Versus	
The State Of Maharashtra And Anr.	...Respondents

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Mr. Aashish Satpute, Mr. Aniket U. Nikam, Mr. Piyush toshnival i/by
Mr. Amit Icham Advocate for Appellants in both matters.

Mr. Sarvajit Patil Advocate for Respondent No.2 in both matters.

Mrs. Anamika Malhotra, APP for the Respondent – State.

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CORAM : PRAKASH D. NAIK, J.

DATE : 19th JUNE, 2023.

P.C.:-

1. These appeals have been preferred challenging the order passed by the Sessions Court rejecting the application for anticipatory bail and thereby seeking anticipatory bail apprehending arrest in connection with C.R. No. 294 of 2022 registered with Pelhar Police Station, Dist. Thane for offences punishable under Sections 143, 147, 149, 323, 504 and 506 r/w 34 of Indian Penal Code and Section 3(1)(r)(s) of the Scheduled Caste and Scheduled Tribes (Prevention of Atrocities) Act, 1989 (for short “SC/ST

Act”) and Section 7 of the Civil Liberties Act.

2. The complainant has alleged that the accused had abused the complainant on the basis of caste and threatened him. The contention of the appellants is that the alleged incident had occurred on 7th March, 2022 and the FIR was lodged on 29th March, 2022. Suit is filed by the complainant in which the application preferred vide Exhibit-5 was rejected on 28th March, 2022 and therefore the FIR was lodged on 29th March, 2022. The FIR does not disclose that the incident had occurred in the presence of the independent person. The alleged incident does not occurred within public view.

3. Learned APP submitted that, incident had occurred within public view in a public place. There are abuses on caste. The role has been attributed to the appellants.

4. Learned Advocate for Respondent No. 2 submitted that, the complainant has referred to the pendency of civil proceedings in the Court. The incident had occurred at public place. Offences under the Atrocities Act are made out. In view of bar under Section 18 of the SC and ST Act, application is not maintainable.

5. There is no explanation for lodging the FIR belatedly. The complainant had filed application exhibit-5 in the civil proceedings which was rejected on 28th March 2022 and FIR was lodged on 29th March 2022. There is no reference of the said order in the FIR. The FIR does not refer to

the presence of any independent person at the place of incident. There is no independent version to corroborate the allegations of the complainant reflected in the FIR. The appellants were granted interim protection vide order dated 8th July 2022. Learned Advocate for Appellants submitted that, on certain conditions of reporting are complied.

6. Considering the aforesaid factual aspects, relief sought in the appeal can be granted.

ORDER

- (i) Criminal Appeal Nos. 673 of 2022 and 674 of 2022 are allowed.
- (ii) Interim order dated 8th July 2022 is confirmed.
- (iii) Impugned order dated 23rd June 2022 passed by learned Additional Sessions Judge, Vasai in Anticipatory Bail Application No. 486 of 2022 and Order dated 18th June 2022 passed by the same Court in Anticipatory Bail Application No. 485 of 2022 are set aside.
- (iv) In the event of arrest of the appellants in connection with C.R. No. 294 of 2022 registered with Pelhar Police Station, Dist. Thane, the appellants be released on bail on furnishing PR. Bond in the sum of Rs.20,000/- each with one or more sureties in the like amount;
- (v) Application stands disposed off.

(PRAKASH D. NAIK, J.)