

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

CRIMINAL APPEAL NO. 1112 OF 2022

Ajijullah Amanullah Khan And Anr. ...Appellants
Versus
State Of Maharashtra And Anr. ...Respondents

....

Mr. Sunny Waskar a/w Mr. Dilip Gupta, Ms. Harshada Morey i/by Vijay Shukla, Advocate for the Appellant.

None for Respondent No.2.

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

CORAM : PRAKASH D. NAIK, J.
DATE : 20th JUNE, 2023.

PER COURT:

1. This is an appeal under Sections 14-A of Scheduled Caste and Scheduled Tribes (Prevention of Atrocities) Act, 1989 (for short 'SC and ST Act'). The Appellants have challenged the order dated 18th October, 2022 passed by Additional Sessions Judge, Division Dindoshi, Mumbai rejecting the application for anticipatory bail.

2. The Appellants are apprehending arrest in C.R. No.46 of 2021 registered with Jogeshwari Police Station for offences under Sections 504, 506 and 509 of Indian Penal Code and Sections 3(1) (s) and (r), 3(w)(ii), 3(2)(Va) of Atrocities Act.

3. The complainant has alleged that on 6th November, 2020 the Accused had abused the complainant and husband on caste. The

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complainant was also abused in filthy language. The FIR was lodged on 29th March, 2021.

4. Vide order dated 16th November, 2022 interim protection was granted to the Appellants. On completing investigation charge-sheet is filed. There has been delay in lodging FIR. Prior to registration of the subject FIR, several complaints were filed at the instance of the Appellants with Jogeshwari Police Station against the complainant apprehending that a false complaint is likely to be filed by complainant against Appellants. It is contended that the registration of FIR is *mala fide*.

5. Learned APP submitted that statement of witnesses support the version of complainant. On instructions it is confirmed that the charge-sheet is filed against the Appellants.

6. It is apparent that the investigation is completed. Custodial interrogation of the Appellants is not necessary. The complaint was filed belatedly. The registration of FIR smacks *mala fide*. Bar under Section 18 would not be an impediment grant relief to Appellants.

ORDER

- i. Criminal Appeal No.1112 of 2022 is allowed;
- ii. Interim order dated 16th November, 2022 is confirmed.

iii. In the event of arrest of the Appellants in connection with in C.R. No. 46 of 2021 registered with Jogeshwari Police Station, the Appellants be released on bail on furnishing P. R. Bond in the sum of Rs.30,000/- with one or two sureties in the like amount;

iv. Appeal stands disposed off.

(PRAKASH D. NAIK, J.)