

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

CRIMINAL APPEAL NO. 1691 OF 2019

Namdev @ Shrikant Pandurang Patil

..Appellant.

Versus

The State of Maharashtra & Anr.

..Respondents

Mr. Shekhar Ingawale for Appellant.

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

Mr. Vikas Singh (Appointed Advocate) for Respondent No.2.

CORAM : SARANG V. KOTWAL, J.

DATE : 23 JANUARY 2023

PC :

1. The Appellant has challenged the order dated 04/12/2019 passed by learned Special Judge and Additional Sessions Judge, Kolhapur in Criminal Bail Application No.1087 of 2019. In effect, the Appellant is seeking anticipatory bail in connection with C.R.No.97 of 2019 registered with Kale police station, Kolhapur, on 24/11/2019 under section 3(1)(r), 3(1)(s) and 3(2)(va) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 and under section 506 of the I.P.C.

2. Heard Shri. Shekhar Ingawale, learned counsel for the Appellant, Shri. Agarkar, learned APP for the State/Respondent No.1 and Shri. Vikas Singh, learned Appointed Advocate for the Respondent No.2.

3. The F.I.R. is lodged by the Respondent No.2 on 24/11/2019. He has stated that, on 03/11/2019, there was some dispute between the Respondent No.2's community members and one Sambhaji Kamble. Because of that, Sambhaji Kamble had given complaint to the same police station against 17 people. On 11/11/2019, around 8 people including the Respondent No.2's sons were arrested in that connection. On 12/11/2019, at around 9.30a.m., the Respondent No.2, Rahul Kamble, Vishwas Kamble etc. were discussing regarding future course of action for getting the arrested people released on bail. It is alleged that, at that time, the Appellant came near them and abused them with reference to the caste. He also threatened them. On this basis the F.I.R. is lodged.

4. Learned counsel for the Appellant submitted that the

alleged incident had taken place on 12/11/2019 and the F.I.R. is lodged on 24/11/2019. The delay has remained unexplained. He submitted that the F.I.R. itself indicates that the Respondent No.2 had reasons to implicate the Appellant falsely because he was holding the Appellant responsible for the arrest of his sons and other people in connection with the earlier offence. Learned counsel for the appellant invited my attention to an N.C. complaint lodged on 24/11/2019 by the Appellant against one Pradip Kamble mentioning that false allegations were made against the Appellant. The police have also filed a report regarding that N.C. that the Appellant had not committed any act regarding which rumors were spread by Pradip. In this background, the F.I.R. against the Appellant was lodged in the evening on 24/11/2019. The N.C. was lodged at the instance of the Appellant on 24/11/2019 at 4.30p.m. According to learned counsel for the appellant, thus, obviously, present F.I.R. is a counter blast to the N.C.. It is filed to pressurize the Appellant.

5. Learned APP produced the investigation papers before me. The statement in the F.I.R. is supported by the witnesses

Tukaram Kamble, Ashok Kamble, Vishwas Kamble, Rahul Kamble, Kiram Kamble and Mahadev Kamble. Apart from that, the statements of Vishwas Kamble, the Respondent No.2, Rahul Kamble and Tukaram Kamble were also recorded U/s.164 of the Cr.p.c.; wherein, they have reiterated the same allegations, as mentioned in the F.I.R.

6. Learned counsel for the Respondent No.2 submitted that the F.I.R. clearly spelt out the allegations under the Atrocities Act, therefore, anticipatory bail cannot be granted to the Appellant.

7. I have considered these submissions. As rightly submitted by learned counsel for the Appellant, there is unexplained delay of about 12 days in lodging the F.I.R. The Respondent No.2 and the aforementioned other witnesses had reason to implicate the appellant, as, their friends were arrested in connection with another offence and the Respondent No.2 and others were holding the Appellant responsible for their arrest. The Appellant had lodged an N.C. at around 4.36p.m. on 24/11/2019 and in the evening at around 7.11p.m. on 24/11/2019 this F.I.R. is

lodged against the Appellant. Thus, in this background, there is scope to believe that the Appellant could have been falsely implicated. However, this will have to be ultimately decided during trial. At this stage, there is a possibility of false implication. Therefore, the Appellant deserves to be granted protection of anticipatory bail. The alleged offence is dated 12/11/2019. More than three years have already passed. In any case, the Appellant's custody at this stage will not serve any purpose. Since there is a possibility of false implication; there is a possibility that the offence under the Atrocities Act is deliberately invoked to implicate the appellant falsely. Considering all these aspects, the Appellant deserves protection of anticipatory bail order. It is made clear that, all these observations are made only for the purpose of deciding this Appeal, the Trial Court shall not be influenced by any of these observations at the stage of trial.

8. Hence, the following order:

O R D E R

- i) In the event of his arrest, in connection with
C.R.No.97 of 2019 registered with Kale police

station, Kolhapur, the Appellant is directed to be released on bail on his furnishing P. R. bond in the sum of Rs.30000/- with one or two sureties in the like amount.

ii) The Appeal is disposed of.

(SARANG V. KOTWAL, J.)