



IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPEAL NO. 102 OF 2024

Ramesh Natharam Ghodke

....Appellant

VERSUS

The Commissioner Of Police And Others

.....Respondents

.....

Mr. P.M. Nagargoje, Advocate for appellant.

Mr. S.B. Jadhav, APP for respondents No. 1 to 3.

Mr. C.C. Deshpande h/f. Mr. B.N. Magar, Advocate for respondent No. 4.

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[CORAM : NITIN B. SURYAWANSHI, J.]

DATE : 07th MARCH, 2024

ORDER :

1. Leave to amend and add prayer clause. Amendment to be carried out forthwith.

2. By this appeal filed under section 14A of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989, appellant challenges the order dated 20.01.2024, passed by learned Additional Sessions Judge and Special Judge, Aurangabad, in E-Bail Application No. 106/2024, thereby rejecting the anticipatory bail application of appellant.

3. Respondent No. 4 lodged FIR at C.R. No. 9/2024, with Kranti Chowk Police Station, Aurangabad, for offences

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punishable under sections 143, 427, 504, 506 of IPC and under section 3(1)(r), 3(1)(s) of Atrocity Act, alleging that on 12.01.2024, at about 10.00 to 10.30 pm, when she with her family members and guests were sleeping in house, appellant, his wife Priyanka Ghodke, Apurva Mehta, husband of Apurva, and Jhanvi Mehta suddenly came in front of their house and told them to vacate the house and started abusing them. Appellant No. 1 broke the door of their house with axe and also damaged water tank with axe. A rear view mirror of Bajaj Avenger motorcycle is also broken by appellant. Then he abused informant in the name of her caste, they left giving threats.

4. Heard learned advocate for appellant, learned APP for respondents No. 1 to 3 and learned advocate for respondent No. 4. Perused the record.

5. It is a matter of record that there is civil dispute going on between informant's family and Tukangiri Math Trust and appellant is representing the Trust, as a lawyer. Trust has contended that its property is illegally encroached by informant and her family. Regular Civil Suit No. 776/2022 is filed by Trust for possession of the property encroached by informant's family. Regular Civil Suit No. 39/2022 is also filed by Trust for

mandatory injunction against father-in-law of informant. Kavita Mehta (co-accused in the present crime) has lodged FIR with Kranti Chowk Police Station, against Pandharinath Nikalje, which is registered at C.R. No. 678/2016, under sections, 354(A)(i)IV, 509 and 294 of IPC. After filing of charge sheet, the case is numbered as Regular Criminal Case No. 3262/2016, wherein appellant has appeared as witness and his evidence is recorded on 04.11.2022.

On the basis of FIR lodged by one of the trustee, C.R. No. 414/2016 is registered against informant's side for offences punishable under sections 420, 406, 467, 468, 471, 201 r/w. 34 of IPC. After filing of charge sheet, the case is numbered as Regular Criminal Case No. 1373/2020. In all these litigations, appellant is representing the Trust and trustees, as a lawyer.

6. On 11.01.2024, appellant as a lawyer has issued public notice on behalf of Trust informing the public at large that nobody should enter into transaction in respect of Trust's property. All the civil disputes and criminal cases are referred in the said notice. It appears that immediately on the next day, FIR in question is lodged by respondent No. 4/informant on 13.01.2024.

7. In view of aforesaid factual background and in view of earlier civil and criminal cases, *prima facie*, *malafide* false implication of appellant in the present crime cannot be ruled out. Therefore, *prima facie*, offences under Atrocity Act are not made out and bar under section 18 of Atrocity Act would not apply to the present case. FIR, *prima facie*, appears to be lodged to pressurize appellant and the people managing the Trust.

8. Learned APP on instructions from investigating officer submits that investigation is almost complete and charge sheet is likely to be filed. Appellant was granted interim protection and he has co-operated in the investigation.

9. Criminal Appeal is therefore allowed by setting aside order dated 20.01.2024, passed by learned Additional Sessions Judge and Special Judge, Aurangabad, in E-Bail Application No. 106/2024.

10. Interim protection granted to appellant on 25.01.2024 is hereby confirmed.

[NITIN B. SURYAWANSHI, J.]