



IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

929 CRIMINAL APPEAL NO. 560 OF 2024

1. Vala Kisan Charan
2. Puna Kisan Charan ...Appellants

VERSUS

The State of Maharashtra & anotherRespondents

.....

Mr. A. S. Mali, Advocate for Appellants.

Mr. P. K. Lakhotiya, APP for the State.

Ms. Tekale, Advocate (appointed) for the informant.

CORAM : R. M. JOSHI, J.

DATE : 3rd OCTOBER, 2024.

PER COURT :

1. Heard.

2. This Appeal is filed for seeking anticipatory bail in connection with Crime No. 0189/2023, registered with Shirpur Taluka Police Station, Dist. Dhule, for the offences punishable under Sections 307, 143, 147, 149 of Indian Penal Code, Section 3(1)(r), 3(1)(s), 3(2)(v) of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act and under Section 37(1), 3, 135 of Maharashtra Police Act.

3. Perusal of the First Information Report indicates that some program was organised on World Indigenous People day on 09.08.2023. On the next day, it was revealed that the banner of the said program was torn by the son of one of the Appellants. After knowing the said fact, informant and others got angry. They went to the area of residence of the present Appellants. There quarrel occurred. A mob of about 700 to 800 people gathered on the spot. It is stated in the First Information Report that the present Appellants and others came along with sticks and rods and they assaulted the informant and 2 to 3 other persons. Allegation is also made with regard to abuses to the informant and others over their caste.

4. Learned counsel for the Appellants submits that the narration in the First Information Report itself is sufficient to conclude that the informant and others were aggressors. They collected a mob and went to the place of residence of the Appellants. It is his further submission that if it is a case of informant that there was a mob of about 700 to 800 people, it is practically impossible that informant would make specific allegation against every one. In any case, according to him, if it is a case of the informant that there

was an incident of pelting of stones, the injuries caused to the informant and others is very much possible for the said reason.

5. Learned APP opposed the appeal on the ground that offence alleged against the Appellants are committed by them and that for application of Sections 143, 147 and 149 of Indian Penal Code, all members of the unlawful assembly are responsible for the acts of each other.

6. Learned counsel for the informant opposed the Appeal on the ground that there is bar for grant of anticipatory bail under Section 18 of the Act. She also submitted that there is no reason to disbelieve the statement of the informant in the First Information Report at this stage. It is informed to this Court that charge-sheet has already been filed.

7. Perusal of the First Information Report atleast prima facie indicates that the informant and others could be aggressors. On the trivial issue of tearing banner of the program, they went to the houses of the Appellants and a mob of about 700 to 800 people was gathered there. In view of above, this Court find substance in

the contention of learned counsel for the Appellants that the informant and others were aggressors. In the light of these facts, it is difficult to accept that this is a case wherein the Appellants are responsible for the occurrence of the said incident. Insofar as offence under the Atrocities Act is concerned, there is no specific allegation that the present Appellants abused the informant and others over their caste. The embargo created by Section 18, therefore, does not apply to this case. Hence, Appeal is allowed in view of the interim order.

8. Fees of the appointed counsel is quantified at Rs. 10,000/-.

9. Needless to state that these observations are made for the purpose of decision of this Appeal and the learned Trial Court shall not get influenced by the same during trial.

(R. M. JOSHI)
Judge