



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

CRIMINAL APPEAL NO. 962 OF 2023

MINAXI NAGNATH SACHANE AND ANOTHER
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

...

WITH

CRIMINAL APPEAL NO. 964 OF 2023

JANAKABAI NAGNATH SACHANE AND ANOTHER
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

...

Mr. R.S. Deshmukkh, Sr. Advocate a/w Ms. Y. A. Namde, i/b Mr. Devang R. Deshmukkh, Advocate for Appellants in both Mrs. U.S. Bhosale, APP for Respondent Nos.1 & 2 - State Mr. Avinash M. Reddy, Advocate for Respondent No.3

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CORAM : NITIN B. SURYAWANSHI, J.

DATE : 31st JANUARY, 2024

PER COURT :

1. Both these appeals impugn orders dated 09/10/2023, passed by learned Additional Sessions Judge, Kallam, in Criminal Bail Application Nos.123/2023 and 124/2023, thereby rejecting anticipatory bail applications of appellants.
2. Third respondent, who is Advocate and who belongs to scheduled caste, lodged FIR on 28/09/2023 alleging that there are civil disputes pending between him and accused persons. Land Gut No.22, ad-measuring 8 Acre 13 Gunthas was purchased by informant. Two rooms and one shed was constructed by him in 2 Gunthas, in said land in the year 2021. Accused Minaxi Nagnath

Sachane purchased land from Gut No.37, ad-measuring 7 Acre, which is on the Northern side of informant's land. Nagnath Rambhau Sachane and Janakabai Nagnath Sachane, residents of village Chorakhali are parents of Minaxi and Anil Dagdu Walsange is her husband. Minaxi and Anil are cultivating the land Gut No.37. On 04/06/2023 at about 09:00 a.m. to 10:00 a.m. accused persons claimed that informant has encroached in their land and abused informant and his brother Bharat, who were working in the field at that time. On the same day, at about 04:00 p.m. to 05:00 p.m. when stray dogs entered in the field of accused persons, accused Nagnath and Anil drove away the stray dogs. Accused got annoyed because informant and his family members did not help them in driving away stray dogs. Therefore, accused took name of his caste and abused him.

3. After registration of crime appellants preferred criminal bail applications which are rejected by Sessions Court. Hence, the present appeals.

4. Heard learned Senior Advocate for appellants, learned advocate for respondent No.3 and learned Additional Public Prosecutor for State. Perused the investigation papers.

5. Appellants have placed on record copy of plaint in Regular Civil Suit No.489/2020, wherein informant is defendant No.5. The suit is for declaration and removal of alleged encroachment on the part of informant. It also appears from

documents placed on record that there is long standing dispute between informant and accused about alleged encroachment by informant, which was tried to be settled before Tanta Mukti Samiti of the village.

6. Learned advocate for informant submits that even informant has filed civil suit against accused persons bearing Regular Civil Suit No.622/2020, wherein temporary injunction is granted in his favour.

7. There is unexplained delay of more than three months in lodging FIR. It needs to be noted that informant is practicing advocate, therefore, he understands that FIR needs to be promptly lodged. Considering the delay in lodging of FIR and pending civil suits between parties, there is strong possibility of false implication of appellants in present crime. Therefore, bar under Section 18 would not be attracted to the facts of the present case. Charge-sheet is already filed in present crime on 30/12/2023. Since investigation is complete and as applicants have co-operated in the investigation, pre-trial custodial detention of appellants is not necessary.

8. In the result, both appeals are allowed by confirming interim protection granted to appellants vide order dated 19th October, 2023.

(NITIN B. SURYAWANSHI, J.)