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IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPEAL NO.1084 OF 2023

Manohar Hullappa Gore

APPELLANT

VERSUS

The State of Maharashtra and Another

RESPONDENTS

.....
Mr. S. R. Bagal h/f Mr. B. N. Gadegaonkar, Advocate for appellant
Mr. A. R. Kale, APP for respondent - State
Mr. Datta S. Kale, Advocate for respondent No.2
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[CORAM : NITIN B. SURYAWANSHI, J.]

DATE : 15th JANUARY, 2024

ORDER :

1. Appellant apprehends arrest in Crime No. 602 of 2023 registered with Udgir Rural Police Station, Udgir for offence punishable under sections 341, 506 of Indian Penal Code and under sections 3 (r) (s), 3 (2) (5-a) of the Schedule Casts, Scheduled Tribe (Prevention of Atrocities) Act.

2. FIR is lodged by Balaji Maroti Kamble alleging that there was previous dispute between appellant and informant, on account of right of approach road to the agricultural field of informant. On 9th October, 2023, at about 3.00 p.m., while informant was proceeding towards his agricultural field, he saw

that the road was obstructed by thorny bushes. He, removed the thorny bushes and proceeded towards his field. At that time, appellant, who is adjacent land owner, came to him and told him that he had put the thorny bushes on the road and informant should not have removed it, as informant has no right to access the road. Thereafter, appellant, by taking name of his caste, abused informant. At that time, adjoining land owners, Digambar Malu and Bhagwat Malu intervened and pacified the quarrel. Anticipatory Bail Application filed by the appellant is rejected by Sessions Court. Hence, the present appeal.

3. Heard learned advocate for appellant, learned APP for State and learned advocate for respondent No.2 - informant.

4. Learned advocate for informant and learned APP have opposed the appeal submitting that there is *prima facie* material to show that appellant has committed the crime.

5. Perusal of investigation papers shows that there is previous dispute of right of way between informant and appellant. Two persons, who have allegedly pacified the quarrel between appellant and informant, have not supported the version of informant. *Prima facie* it appears that on account of previous dispute *mala fide* present FIR is lodged. Nothing is to be

recovered from appellant. Investigation seems to be on the verge on completion. In that light of the matter, custodial detention of appellant is not necessary. Hence, the following order.

ORDER

- A. Appeal is allowed by confirming the interim protection granted by order dated 8th November, 2023.
- B. Till filing of the charge sheet, appellant shall attend the concerned police station as and when called by the Investigating Officer.
- C. Appellant Shall not tamper prosecution evidence and shall not influence prosecution witnesses.
- D. Needless to state that observations made in this order are *prima facie* and shall not influence the learned Trial Judge, while deciding the case.

[NITIN B. SURYAWANSHI]
JUDGE