



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

CRIMINAL APPEAL NO. 1110 OF 2023

POPAT GOVIND HAGARE AND OTHERS
VERSUS
THE STATE OF MAHARASHTRA AND ANOTHER

...

Mr. Datta A. Madake, Advocate for Appellants
Mr. S.D. Ghayal, APP for Respondent No.1 - State
Mr. P.A. Dhakane, Advocate h/f Mr. Shashikant E. Shekade, Advocate
for Respondent No.2

...

CORAM : NITIN B. SURYAWANSHI, J.

DATE : 30th JANUARY, 2024

PER COURT :

1. This appeal challenges order dated 31/10/2023, passed by learned Additional Sessions Judge, Kallam, in Criminal Bail Application No.132/2023, thereby rejecting anticipatory bail to applicants.

2. FIR is lodged by informant Mohajanabai Bhimrao Ranshinge alleging that on 02/03/2023 at about 10:00 a.m. she was assaulted by appellants in her agricultural land bearing Gut No.45, situated at village Adhala, with sticks and stones and they called name of her caste since she belongs to scheduled caste. Accordingly C.R. No.420/2023 is registered at Kallam Police Station, Dist. Osmanabad, for offences punishable under Sections 143, 147, 148, 149, 324, 354, 504, 506 r/w 34 of I.P.C. and Sections 3(1)(r), 3(1)(s), 3(1)(w)(i), 3(1)(w)(ii) and 3(2)(va) of the Scheduled Castes

and Scheduled Tribes (Prevention of Atrocities) Act. After registration of crime appellants filed Criminal Bail Application No.132/2023, seeking anticipatory bail. Trial Court rejected said application. Hence, the present appeal.

3. Heard learned advocate for appellants, learned Additional Public Prosecutor for State and learned advocate for respondent No.2. Perused the documents placed on record.

4. FIR of incident dated 02/03/2023 is lodged on 21/09/2023 i.e. almost after more than six months period. Learned advocate for appellants has placed on record copy of the sale deed of land Gut No.45 ad-measuring 93R, which appellant No.2 has purchased from Makarand Bhimrao Bawane in the year 2021. In boundaries of land in said Gut number purchased by appellant No.2, on Northern side, land of Suresh Ganapati Ranshinge is mentioned. On query by the Court, sale deed dated 26/04/2007 by which Makarand Bhimrao Bawane purchased the land in question from Sushma Bhimrao Ranshinge and Sau. Pamabai Bhimrao Ranshinge is placed on record. In the said sale deed it is mentioned that towards Northern side of said land there is land of Suresh Suresh Ganapati Ranshinge and Mohajanabai Bhimrao Ranshinge i.e. informant.

5. *Prima facie* there appears dispute between informant

and appellants in respect of land Gut No.45. Injury certificate does not support allegations of informant made in the FIR. Considering the totality of circumstances, *prima facie* it appears that *mala fide* FIR is lodged against appellants. No prima facie case is made out in the FIR to attract provisions of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, as it is difficult to believe that appellants in chorus took name of informant's caste.

6. For the aforestated reasons, appeal is allowed. Impugned order dated 31/10/2023, passed by learned Additional Sessions Judge, Kallam, in Criminal Bail Application No.132/2023, is hereby quashed and set aside.

7. Interim protection granted to appellants vide order dated 21st November, 2023 and order dated 22nd December, 2023, is confirmed.

(NITIN B. SURYAWANSHI, J.)