



IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPEAL NO. 1136 OF 2023

Sidhart Baburao Tangade

....Appellant

VERSUS

The State Of Maharashtra And Others

.....Respondents

.....

Mr. A.R. Gaikwad, Advocate for appellant.

Mr. N.B. Patil, APP for respondent No. 1.

.....

[CORAM : NITIN B. SURYAWANSHI, J.]

DATE : 27th FEBRUARY, 2024

ORDER :

1. This appeal filed under section 14-A of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 ('Atrocity Act') challenges the order dated 26.10.2023, passed by learned Additional Sessions Judge and Special Judge, Aurangabad in E-Bail Application No. 2161 of 2023, thereby granting anticipatory bail to respondents No. 2 and 3.

2. Appellant lodged FIR at C.R. No. 484/2023 with MIDC CIDCO Police Station, Aurangabad, for offences punishable under sections 143, 147, 149, 295, 427, 506 of IPC and under sections 3(1)(r), 3(1)(z) and 3(1)(z) of Atrocity Act, against respondents No. 2 and 3 and 8 to 10 unknown persons alleging

Bhagyawant Punde

that respondents No. 2 and 3 along with unknown persons trampled the blue flag installed by him in his own plot. They have damaged the compound and abused informant by taking name of his caste. They have also damaged compound of 10 to 12 adjacent plots and threatened and made informant to leave possession of said plot.

3. On registration of crime, respondents No. 2 and 3 filed E-Bail Application No. 2161 of 2023, under section 438 of Cr.P.C., which is allowed by Trial Court. Hence, the present appeal.

4. Heard learned advocate for appellant and learned APP for respondent-State. Perused the record.

5. Learned advocate for appellant vehemently contends that though offence under Atrocity Act is clearly made out in the FIR lodged by appellant, Trial Court by ignoring Section 18 of Atrocity Act has erroneously granted anticipatory bail to respondents No. 2 and 3. He submits that to ascertain identity of unknown persons, custodial interrogation of respondents No. 2 and 3 is necessary and this aspect is ignored by Trial Court. He further submits that on 31.08.2023 when incident took place, he

approached police station to lodge report, but police did not register the FIR. He therefore submits that impugned order is liable to be quashed and set aside.

6. Perusal of documents placed on record and the impugned order show that FIR of incident dated 31.08.2023 was lodged on 05.10.2023. Trial Court has observed that "*it appears that there is civil dispute between the parties. Custodial interrogation is not required and no specific role is attributed against each applicant.*"

7. Taking into consideration the unexplained delay in lodging FIR and civil dispute between parties, *prima facie*, false implication of respondents No. 2 and 3 in the present crime cannot be ruled out. In the peculiar facts of the present case, custodial interrogation of respondents No. 2 and 3 is not necessary, as nothing is to be recovered from them. Trial Court has passed a reasoned order, which is not liable to be interfered with in the present appeal. Appeal being devoid of merits, is dismissed.

[NITIN B. SURYAWANSHI, J.]