



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPEAL NO. 1141 OF 2023

Uttam Ginaji Deokatte

... Appellant

VERSUS

The State Of Maharashtra
And Others

... Respondents

.....

Mr. Nitin U. Telgaonkar, Advocate for Appellant

Mr. N.B. Patil, APP for Respondent No.1 – State

Mr. S.S. Rath, Advocate for Respondent Nos.2 and 3

.....

[CORAM : NITIN B. SURYAWANSHI, J.]

DATE : 26th FEBRUARY, 2024

ORDER :

1. By this appeal, appellant challenges order passed by learned Additional Sessions Judge/Special Judge, Gangakhed District Parbhani, thereby allowing Criminal (Bail) M.A. No.194 of 2023 filed by respondent Nos.2 and 3, and granting them anticipatory bail.

2. Appellant lodged FIR at C.R. No.402 of 2023 on 14.09.2023 alleging that at the time of *Pola festival*, villagers had gathered at Maruti temple, at that time, when appellant went to Maruti temple for prayer and offering coconut, respondent no.2 called the name of his caste and asked him as to why he has come to temple. Respondent no.3, Tukaram Rangire, Manaji Rangire, Munjaji Rangire, Nagesh Nile rushed on him. They abused appellant in the name of caste and also

gave him threats. When Sarpanch Sunil Rangire questioned them as to why they are abusing appellant on his caste, respondent no.2 assaulted him with stick and caused grievous injury to his head. He also assaulted appellant by stick. Respondent No.3 – Police Patil gave sickle and instigated to kill them by saying that she will manage the police. According to appellant, all the accused persons have assaulted him and witnesses and caused them grievous injuries. Pursuant to lodging of FIR, respondent Nos.2 and 3 filed anticipatory bail application, which is allowed by Trial Court vide order dated 19.10.2023. Hence, the present appeal.

3. Heard learned advocate for appellant, learned APP for respondent No.1 – State and learned advocate for respondent nos.2 and 3. Perused the investigation papers.

4. Learned advocate for appellant submits that offence under Atrocities Act are clearly made out in the FIR. The Trial Court had committed an error in granting anticipatory bail by ignoring section 18 of the of the Scheduled Castes Scheduled Tribes (Prevention of Atrocities) Act, the impugned order is therefore unsustainable in law and facts of the case.

5. Learned APP has placed on record investigation papers and submits that charge-sheet is filed in the present case on 29.12.2023.

6. Learned advocate for respondent nos.2 and 3 by relying on affidavit-in-reply filed by him submits that respondent No.2 has suffered fracture and one more person Tukaram Munjaji Rangire has suffered head injury in the assault initiated by appellant and his party. For that purpose, FIR at C.R. No.405 of 2023 is lodged with Gangakhed Police Station for offences punishable under sections 143, 147, 148, 149, 323, 324, 326, 504 and 506 of the Indian Penal Code by respondent no.2 against eight accused persons including appellant. It is submitted that appellant and other accused persons were granted anticipatory bail by the Sessions Court.

7. Charge-sheet is already filed in the present case on 29.12.2023 and weapons used in the crime are already recovered.

8. It appears from the record that there was free fight between two groups, due to which both parties have registered cases against each other. Present matter arises out

of C.R. No. 402 of 2023. Whereas, respondent no.2 has lodged FIR at C.R. No.405 of 2023.

9. In the FIR, it is alleged that all the accused persons in chorus have called the name of caste of informant, which is *prima facie*, unbelievable. Learned Trial Court, in this regard, has rightly relied on ***Dharmishtha Bafna's*** case. Since both the parties have lodged FIR's against each other, there is every possibility that with a view to increase the gravity of offence, there is possibility of allegations inviting offence under Atrocities Act, are levelled in the present case.

10. Be that as it may, since charge-sheet is filed and weapons allegedly used in the crime are recovered, this is not fit case to exercise discretion and cancel the anticipatory bail granted to respondent Nos.2 and 3. No case is made out by appellant to cancel the well reasoned order passed by the Trial Court granting anticipatory bail to respondent Nos.2 and 3.

11. Appeal is therefore rejected.

[NITIN B. SURYAWANSHI]
JUDGE