



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

CRIMINAL APPEAL NO.1178 OF 2023

1. Laxmi Rajendra Dhage
Age 51 Years, Occu.Agri
R/o Washi, Tq. Washi, Dist. Osmanabad.
2. Sachin Rajendra Dhage
Age 27 Years, Occu. Agri
R/o Washi, Tq. Washi, Dist. Osmanabad.
3. Vikram Rajendra Dhage
Age 25 Years, Occu. Agri
R/o Washi, Tq. Washi, Dist. Osmanabad.
4. Chandrakant Madhukar Chede
Age 45 Years, Occu. Agri
R/o Washi, Tq. Washi, Dist. Osmanabad. ...Appellants

Versus

1. The State of Maharashtra,
Through Police Inspector,
Police Station, Bhoom,
Tq. Bhoom, Dist. Osmanabad.
2. Bhagubai Shivaji Kale
Age : 72 Years, Occu : Labour,
R/o Pardhi Pidhi, Bhoom,
Tq. Bhoom, Dist. Osmanabad. ...Respondents

...
Mr. S.G. Kawade, Advocate for Appellants
Mr. S.B. Jadhav, APP for Respondent No.1/State
Mr. Ranjit D. Gaikwad, Advocate for Respondent No.2
...

CORAM : NITIN B. SURYAWANSHI, J.

**RESERVED ON : 20th FEBRUARY, 2024
PRONOUNCED ON : 13th MARCH, 2024**

ORDER :

1. This appeal filed under Section 14A of the Scheduled
Castes and Scheduled Tribes (Prevention of Atrocities) Act,

challenges order dated 07/12/2023, passed by learned Special Judge, Bhoom, in Criminal Bail Application No. 194/2023, thereby rejecting anticipatory bail application filed by appellants.

2. Informant filed private complaint bearing Criminal Case No.18/2023, wherein direction under Section 156(3) of Cr.P.C. is issued, the FIR at C.R. No.256/2023, is registered at Bhoom Police Station, Osmanabad, under Sections 420, 463, 464, 468, 471 r/w 34 of the Indian Penal Code and Sections 3, 1(1), 3(1)(c), 3(1)(e), 3(1)(t), 3(1)(f), 3(1)(p), 3(1)(y), 2(1) and 2(5)(2) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, against 1. Laxmi Rajendra Dhage, 2. Sachin Rajendra Dhage, 3. Vikram Rajendra Dhage, 4. Vishal Sarjerao Dhage, 5. Baba Vitthal Andhare, 6. Dasharath Ambadas Sangale and 7. Chandrakant Madhukar Chede, all residents of Chinchpur Dhage, Taluka Bhoom, wherein it is alleged that all accused persons were aware that informant belongs to scheduled tribe community. On 19/11/2020, accused No.1 Laxmi Dhage by accepting consideration of Rs.42,000/- executed registered sale deed of Gram Panchayat Property No.658 in favour of informant. Thereafter, accused No.1 Laxmi, accused No.2 Sachin and accused No.3. Vikram filed Regular Civil Suit No.242/2021 for cancellation of said sale deed. Accused Nos.1 to 3, at the instance of accused Nos.4 to 7, mentioned in said civil suit that informant belongs to scheduled tribe community and tried to convey that she

is involved in illegal acts. The suit was dismissed. Thereafter, accused Nos.1 to 3 preferred appeal against impugned judgment and decree, which also came to be dismissed. All accused persons in collusion with each other are trying to grab Gram Panchayat Property No.658 and are trying to cause obstruction to the ownership and possession of informant over the said property. Informant approached Bhoom Police Station complaining against accused persons. Since police did not take cognizance, present complaint is filed and under the orders of trial Court under Section 156(3), FIR is registered at C.R. No.256/2023, with Bhoom Police Station, Osmanabad, for offences punishable under Sections 420, 463, 464, 468, 471 r/w 34 of the Indian Penal Code and Sections 3, 1(1), 3(1)(c), 3(1)(e), 3(1)(t), 3(1) (f), 3(1)(p), 3(1)(y), 2(1) and 2(5) (2) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act. Appellants apprehending their arrest filed Criminal Bail Application No.194/2023, which is rejected by the trial Court. Hence, present appeal.

3. Heard learned APP for respondent No.1/State, learned advocate for appellants and learned advocate for respondent No.2. Perused the investigation papers.

4. It is the case of appellants that appellant Nos.1 to 3 have executed sale deed in favour of informant in respect Gram Panchayat Property No.658, but informant has not paid full

consideration amount and therefore they have filed R.C.S. No.242/2021 in the Court of Civil Judge, Junior Division, Bhoom against informant. In the said suit, informant appeared and joint compromise pursis was filed on 29/06/2021. However, on technical grounds said compromise was rejected by trial Court and the suit was dismissed. Appellants are innocent and are falsely implicated in present case due to said civil dispute. If at all appellants had *mens rea* they would not have executed sale deed in favour of informant. Appellant No.4 has no concern with the sale deed and he was only witness to the sale deed.

5. Learned APP and learned advocate for respondent No.2 opposed the appeal, placing reliance on decision of the Apex Court in ***Hitesh Verma Vs. The State of Uttarakhand and Another, AIR 2020 SC 5584.***

6. In the plaint of civil suit, appellant Nos.1 to 3 have made following statement:-

“That, the defendant is by caste Pardhi Community. Defendant will use the disputed house for illegal purpose as like sell the liquor.”

The same statement is repeated in paragraph No.13 of appeal memo. Appellants, therefore, tried to convey that because informant belongs to scheduled tribe category, she will be using the said house for illegal purpose like sell of liquor.

7. *Prima facie*, by making such statement in the plaint and appeal memo appellants have intentionally insulted and humiliated respondent No.2 / informant within public view, therefore, offences punishable under Atrocity Act are rightly applied against them. Therefore, trial Court is justified in denying anticipatory bail to them, in view of bar under Section 18.

8. So far as appellant No.4 is concerned, he is only a witness to the sale deed and there are no allegations against him that he has committed any act to attract provisions of Atrocity Act. He, therefore, is entitled for discretionary relief of anticipatory bail.

9. In **Hitesh Verma** (supra) the Apex Court has held that under Section 3(1)(r) insult or intimidation has to be in any place within public view. In present case, since statement made by appellant Nos.1 to 3 in the plaint and appeal memo is sufficient to attract offence under Atrocity Act, therefore, appellant Nos.1 to 3 are not entitled for protection.

10. In the result, following order:-

ORDER

(I) Appeal of appellant Nos.1 to 3 is dismissed.

(II) Appeal of appellant No.4 Chandrakant Madhukar Chede is allowed, by confirming interim protection granted to him by order dated 19/12/2023.

(III) Impugned dated 07/12/2023, passed by learned Special Judge, Bhoom, in Criminal Bail Application No. 194/2023, is quashed and set aside to the extent of appellant No.4 Chandrakant Madhukar Chede.

(NITIN B. SURYAWANSHI, J.)