



Diksha Rane

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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

CRIMINAL APPEAL NO.745/2023

BHAVESH PURUSHOTTAM PATIL ..APPELLANT
VS
STATE OF MAHARASHTRA AND
ANR. RESPONDENTS

Adv. Ashley Cusher for the appellant.
Mr. S. H. Yadav, APP for the State.
Adv. Mainak Adhikary for the respondent no.2.
PSI Avinash Hatkhile, Virar Police Station.

CORAM : M. S. KARNIK, J.

DATE : JANUARY 5, 2024.

P.C. :

1. Heard learned counsel for the appellant.
2. This appeal is filed for anticipatory bail. The allegations are mainly against accused Purushottam Dinkar Patil who has been enlarged on bail vide order dated 21/2/2023. For ease of reference, the order is reproduced which would cover the facts of the present case.

1. The Appellants have challenged the order dated 20/12/2021 passed by the Additional Sessions Judge, Vasai, in Criminal Anticipatory Bail Application No.1384 of 2021. In effect the Appellants are seeking anticipatory bail in connection with C.R. No.1184/2021 registered with Virar Police Station, on 04/12/2021 u/s 354, 442, 143, 147, 149, 506, 504 of the Indian Penal Code and u/s 3(1)(r), 3(1)(s), of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 (for

short 'Atrocities Act').

2. Heard Mr. Ashley Cushner, learned counsel for the Appellants, Ms. Ameeta Kuttikrishnan, learned counsel for Respondent No.2 and Smt. M. R. Tidke, learned APP for the State.

3. The Appellant No.1 and 2 are the husband and wife. The Appellant No.3 is their nephew, the Appellant No.4 is their daughter. The FIR is lodged by the Respondent No.2. She has stated that the Appellant No.1's place was adjoining to the Respondent No.2's place. She has further stated that on 27/11/2021 in the afternoon the Appellant No.1 had started putting up a compound wall in the space belonging to the Respondent No.2. She objected to it. She was working with Shramajivi Sanghatana. She called the co-workers from her party. About 12 workers of her party approached the Appellant No.1 and convinced her to stop work. On 03/12/2021 at about 01.00 p.m. she saw that the Appellant No.1 had restarted that work. She asked the Appellant No.1 to stop the work. But he refused. Therefore the Respondent No.2 called other lady workers from her party. About 15 such workers gathered there and they asked the Appellants to stop the work. It is alleged that all the Appellants and two others namely Pratik Patil and Bhavesh Patil abused her with reference to the caste. The Appellant No.3 Hitesh told her that if anything happened to his family, he would name her. She was assaulted with fist blows. She was pushed. It is alleged that the Appellant No.3 and Pratik outraged her modesty. Even her daughter Pratiksha was beaten. On this basis, the FIR is lodged.

4. Learned counsel for the Appellant stated that the Appellant No.1's sister-in-law had lodged her own FIR vide C.R.No.1187/2021 immediately on the same day i.e. on 04/12/2021 at the same Virar police station u/s 324 and other sections of the IPC against the Respondent No.2, her daughter, and the alleged witnesses in C.R.No.1184/2021.

5. He submitted it was not believable that all the accused would abuse the Respondent No.2 in chorus. The FIR is lodged to put pressure the Appellants' family and to grab their land.

6. Learned counsel for Respondent No.2 submitted that the offence under the Atrocities Act is made out and therefore considering bar u/s 18 of the said Act, anticipatory bail cannot be granted to the Appellants. The Respondent No.2 and her daughter have suffered the injuries. Besides the allegation of beating, there are allegations of outraging the modesty. That allegation is serious.

7. Learned APP supported the contention of learned counsel for Respondent No.2. She produced the investigation papers in respect of both these offences i.e. C.R.No.1184/2021 and C.R.No.1187/2021 registered at Virar police station.

8. I have considered these submissions and I have perused the investigation papers in both these offences. The

Respondent No.2 and her daughter Pratiksha have suffered blunt trauma and contusion. There were minor injuries. Pratiksha had suffered blunt trauma on the back. The Respondent No.2 had suffered contusion over left arm and blunt trauma over both hands.

9. As against that, the Appellant No.1's mother has suffered abrasion on the left side on the left leg. The allegations are that she was assaulted with a sickle.

10. There are statements of witnesses Ranjana Baraf, Asha Tumbde, Barku Dhinde and Pratiksha kadangal supporting the Respondent No.2's case. Out of them Pratiksha and Asha Tumbde are the accused in the counter case lodged by the Appellant's group. The FIR itself shows that the Respondent No.2 called co-workers from her party. Therefore there is scope to believe that the Respondent No.2's group was the aggressor resulting in this incident. There is substance in the arguments of learned counsel for the Appellants that there are no specific allegations attributing those particular abuses to any particular accused/Appellant. It is not believable that all the accused could have uttered the derogatory words in chorus.

11. Considering all these aspects, the Appellants deserve to be protected by an order of anticipatory bail. It is made clear that all these observations are made only for passing of this order. The Trial Court shall not be influenced by the observations made in this order at the time of trial.

12. Hence, the following order :

O R D E R

(i) The Appeal is allowed.

(ii) In the event of their arrest in connection with C.R. No.1184/2021 registered with Virar Police Station, the Appellants are directed to be released on bail on their furnishing P.R. bond in the sum of Rs.30,000/- (Rupees Thirty Thousand only) each, with one or two sureties each, in the like amount.

(iii) The Appeal is disposed of."

3. The co-accused have been enlarged on bail. Though the appeal is opposed by learned APP and learned counsel for the respondent no.2 contending that a specific role of assault is assigned to the appellant as also it is alleged that the appellant had abused the respondent no.2 in the name

of the caste, considering that the co-accused having same role have been enlarged on bail, I am inclined to enlarge the applicant on bail. The interim protection granted to the appellant on 5/7/2023 therefore deserves to be confirmed. Hence, the following order :-

ORDER

- (i) The Appeal is allowed.
- (ii) The order dated 16/6/2023 passed by the trial Court is set aside.
- (iii) In the event of the arrest of the appellant in connection with C.R. No.1184/2021 registered with Virar Police Station, the Appellant be released on bail on furnishing P. R. Bond in the sum of Rs.20,000/- with one or more sureties in the like amount.
- (iv) The Appeal is disposed of.

(M. S. KARNIK, J.)