



Diksha Rane

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

CRIMINAL APPEAL NO.848/2022

RAVINDRA SUDHAKAR CHAVAN

..APPELLANT

VS

THE STATE OF MAHARASHTRA & ANR.

..RESPONDENTS

Adv. Abhishek R. Avachat for the appellant.

Mr. S. H. Yadav, APP for the State.

Adv. Nikhilesh Pote for the respondent no.2.

PSI Tarachand S., Khadki Police Station, Pune City.

CORAM : M. S. KARNIK, J.

DATE : FEBRUARY 5, 2024.

JUDGMENT :

1. Heard learned counsel for the appellant, learned APP for the State and learned counsel for the respondent no.2.

2. This appeal is challenging the order of the Special Court rejecting the application for grant of anticipatory bail to the appellant. The First Information Report (FIR) bearing No.320/2022 is dated 19/7/2022 registered with Chaturshrungi Police Station, Pune City, for the offence punishable under Sections 3(1)(f), 3(iv), 3(v) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 read with Section 8 of the Maharashtra

Ownership Flat (Regulation of the Promotion of construction, sale, management and transfer) Act, 1963. In the FIR it is alleged that the offence is during the period 3/3/2021 and 19/7/2022. The informant belongs to the Scheduled Caste. The appellant is a developer. The respondent no.2 is a co-sharer in respect of the land which is owned by the family. The development agreement is of the year 2010. As per the development agreement, 5000 sq.ft. area was to be handed over as saleable area to the land owners. In March 2011, there was another agreement executed, by which correction deed, the saleable area was reduced to 4500 sq.ft. The informant is the wife of the deceased co-sharer. It is the case of the informant that though repeated requests were made, the developer failed to hand them over the possession of flat admeasuring 1890 sq.ft. to the extent of their entitlement. It is further alleged that the building construction was started without getting the approvals and commencement certificate from the Corporation. It is then alleged that when the informant requested the appellant to hand over the flat to the respondent no.2, the appellant abused the respondent no.2 in the name of caste.

3. A reading of the FIR reveals that no details have been mentioned as to the date and time when the caste related abuses were hurled at the respondent no.2. Learned APP for the State submitted that there are statements of the independent witnesses who say that these caste based abuses were made sometime in June, 2021. It is pertinent to note that the FIR was registered on 19/7/2022 whereas the statements of the independent witnesses were recorded only post November 2022 after the present appeal was filed and during the pendency of the interim protection order. There is, *prima facie*, delay in recording the statements of the independent witnesses.

4. *Prima facie*, I also find there is a delay in lodging the FIR. The details of the date of the caste related abuses that is indicated in the supplementary statement which is recorded almost five months after registering the FIR. I further find that a complaint has already been filed by the respondent no.2 sometime in the year 2018 for directing the appellant to handover the vacant and peaceful possession of the flat and shop to the respondent no.2 and also to execute the sale deed in favour of the respondent no.2 and

form of the co-operative society.

5. Learned counsel for the appellant submitted that the appellant has already handed over the area of 371.82 sq. ft. to the family. Learned counsel for the appellant, on instructions, submits that the appellant is bound to adhere the agreement and ready and willing to handover the remaining portion. It is, thus, seen that there are longstanding disputes between the appellant and the respondent no.2 over the performance of the development agreement. The possibility of exaggeration of the allegations relating to abuses in the name of the caste cannot be ruled out. In my opinion, the appeal deserves to be allowed. The observations are limited to considering this appeal. The interim protection granted by this Court on 24/8/2022 deserves to be confirmed on the following terms :-

ORDER

(a) In the event of arrest in connection with C.R. No. 320/2022 registered with Chaturshrungi Police Station, the appellant shall be released on bail on furnishing P.R. bond to the extent of Rs.20,000/- with one or two sureties of the like

amount.

(b) The appellant shall report to the concerned police station as and when called for and co-operate with the investigation.

(c) The appellant shall not directly or indirectly make any inducement, threat or promise to any person acquainted with facts of case so as to dissuade him from disclosing the facts to Court or any Police Officer and should not tamper with evidence.

(d) The appeal is disposed of.

(M. S. KARNIK, J.)