



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR

CRIMINAL APPEAL NO. 188 OF 2024

APPELLANTS:

1. Pramod s/o Natthuji Ladole,
Aged 48 years, Occu: Farmer.
2. Shrikrushna s/o Shriram Khedkar,
Aged 45 years, Occu: Farmer.
Both r/o Pandhari Khanmpur,
Tah. Anjangaon Surji, District Amravati.

...VERSUS...

RESPONDENTS

1. The State of Maharashtra, through
its Police Station Officer, Police Station,
Anjangaon Surji,
District Amravati – Gramin.
2. Ravindra s/o Ramrao Raibole,
Age about 58 years, Occu: Farmer,
R/o Pandhari Khanmpur,
Tah. Anjangaon Surji, District Amravati.

Mr. Sumit B Gandhe, counsel for the appellants.

Mrs. Sneha Dhote, APP for respondent/State.

Mr.Amol G. Hunge, counsel (appointed) for respondent No.2

CORAM : URMILA JOSHI-PHALKE, J.

DATE : 04/10/2024

ORAL JUDGMENT :

1. **Admit.** Heard finally with the consent of learned
counsel appearing for the parties.

2. The appellants are seeking anticipatory bail in

connection with Crime No. 147/2024 registered with Police Station Anjangaon Surji for the offences punishable under Sections 143, 147, 294 and 506 read with Section 149 of the Indian Penal Code, 1860 and under Section 3(2)(va), 3(1)(r), 3(1)(s) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act (for short 'the Atrocities Act'). The appellants have approached the Special Court for grant of bail by filing the Criminal Bail Application No.100/2024, which was rejected by the Special Court, Achalpur, hence this appeal.

3. The crime is registered on the basis of a report lodged by the Ravindra Ramrao Raibole, on an allegation that on 29/02/2024 there was a monthly Gram Sabha at Gram Panchayat Pandhri. When the said Gram Sabha was in progress, at that time, there was a discussion on the subject of the entry door in the name of Dr. Babasaheb Ambedkar. At the relevant time, some members have opposed the said proposal, and during that meeting, he was abused by the present appellants and the other co-accused, and he was abused by abusing his caste. On the basis of said report, police have registered the crime against the present appellants.

4. The learned counsel for the appellants submitted that, from the recitals of the FIR it reveals that a general allegation is made against the present appellants and another co-accused, and it is the allegation in a chorus. He submitted that, even accepting the allegation as it is, no offence is made out against the present appellants. He also invited my attention

towards various statements who were present in the meeting and submitted that some of the witnesses stated that an alleged incident had taken place and some of the witnesses stated that no such incident had taken place. The statements of the Chaya Satish Abhyankar and Sudhir Parshramji Yaul were recorded. Sudhir Parshuramji Yaul, who was serving as a Gram Vikas Officer in the said Gram Panchayat, has not stated anything about the said incident. Thus, he submitted that whether such type of incident was occurred or not is in question. Considering the inconsistent statements of the witnesses, no prima-facie case is made out against the present appellants.

5. In support of his contention, he placed reliance in the case of *Vijaymala and Ors. v The State of Maharashtra and Ors. [2020 ALL MR (Cri) 1835]*, wherein the Co-ordinate Bench at Aurangabad by referring the judgment of *Shashikant Ramhari Tambe and Ors. v. State of Maharashtra [2008 ALL MR (Cri.) 2132]*; and in *Mukesh Kumar Saini v. State (Delhi Administration) [MANU/DE/0745/2001]*, wherein it is observed that there were no specific accusations against each of the accused and Section 34 of IPC cannot be pressed into service. Omnibus statement that all the accused persons uttered allegedly humiliating words may not be enough. In that case also, on the basis of those observations, when allegations were that all the accused had made abuses and there was no specific accusation against each of the accused, anticipatory bail was granted when the offence was under the Atrocities Act.

6. He submitted that, considering the omnibus statement made by the witnesses against the present appellants and all other co-accused, no prima facie case is made out. In view of that, the bar under Section 18 of the Atrocities Act is not attracted, and therefore, interim protection granted to the present appellants deserves to be confirmed.

7. The learned APP and learned counsel for the informant strongly opposed the said appeal on the ground that the statements of the independent witnesses who were present in the said Gram Sambha specifically stated regarding the role of the present appellants. In view of that, the bar under Section 18 of Atrocities Act is attracted, and therefore, the application for grant of bail is rightly rejected by the Special Court, and no interference is called for.

8. After hearing learned counsel for the appellants and learned APP as well as counsel for the informant, perused the investigation papers from which it reveals that during the Gram Sabha, the alleged incident has occurred on account of passing of resolution regarding the entry door in the name of Dr. Babasaheb Ambedkar. The statements of the witnesses are recorded, from which it reveals that some of the witnesses have supported that such type of incident has occurred, whereas some of the witnesses have not stated anything regarding such type of incident. Sudhir Parsharamji Yaul, who was serving as a Gram Vikas Adhikari at the relevant time was also present in the said meeting. He has not uttered a single word regarding

the occurrence of said incident. Thus, considering inconsistent statements of the witnesses, whether the said incident was occurred or not itself is in doubt.

9. This court in the case of *Vijaymala and Ors. v The State of Maharashtra and ors* (supra), the Co-ordinate Bench in para No.10 observed that in view of the observations in various judgments, it could not have been in a chorus, and the appellant can be given benefit of the decisions in view of *Shashikant Tambe's* case as well as *Sugriv Garde's* case. It is further observed that where the abuses are in chorus prima facie will have to be observed that the offences under the Atrocities Act are not made out against the appellants.

10. Thus, considering the observations and considering the facts of the present case, the allegation is that there were abuses in chores by all the appellants and other co-accused. Thus, considering the same, the bar under Section 18 of the Atrocities Act is not attracted. In view of that, interim protection granted to the appellants deserves to be confirmed. Accordingly, I proceed to pass the following order;

- a] The appeal is **allowed**.
- b] The order passed by Special Court, Achalpur in criminal bail application No. 100/2024 is hereby quashed and set aside.
- c] The appellants shall be released on anticipatory bail, in connection with Crime

No.147/2024 registered with Police Station Anjangaon Surji for the offence punishable under Sections 143, 147, 294 and 506 read with Section 149 of the Indian Penal Code, 1860; and under Section 3(2)(va), 3(1)(r), 3(1)(s) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act on executing P.R. bond in the sum of Rs.25,000/- each with one solvent surety in the like amount.

- d] The appellants shall attend the concerned police station as and when required for the investigation purpose and shall co-operate with the investigating agency.
- e] The appellants shall not directly or indirectly make any inducement and threat or promise to any person acquainted with the facts of the present case.
- f] The fees of the appointed counsel be quantified as per Rule.

The criminal appeal is **disposed of** accordingly.

[URMILA JOSHI-PHALKE, J.]