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47-APEAL-886-2024

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

47 CRIMINAL APPEAL NO. 886 OF 2024

Narayan Wamanrao Sawant And Others

VERSUS

The State Of Maharashtra And Another

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None for Appellants.

Smt. A. S. Deshmukh, APP for Respondent/State.

Mr. R. M. Gaikwad, Appointed Advocate for the Respondent No.2.

CORAM : KISHORE C. SANT, J.

DATE : 17th JUNE 2025.

PC :-

1. Heard the learned Advocate for the parties.
2. Inspite of several chances, none appears for the appellants. Interim relief was already granted by this Court by order dated 16th October 2024. On the last occasion i.e. 10th June 2025, this Court specifically passed an order adjourning the matter till today, by way of last chance. Despite this, none appears for the appellants even today. This Court has, therefore, decided to proceed further with the assistance of learned APP and learned Advocate Mr. Gaikwad, appointed through legal aid for

respondent No.2.

3. The appellants have approached this Court seeking bail in the event of their arrest in connection with Crime No.404 of 2024 registered with Hatta Police Station, District Hingoli, for offences punishable under Sections 504, 506 read with 34 of the Indian Penal Code, 1860, and Sections 3(1)(r), 3(1)(s) and 3(1)(b) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 (for short “SC and ST Act”).

4. It is alleged by the informant that the present appellants are the persons belonging to open category, whereas the complainant happens to be a person belonging to Scheduled Caste category. In the FIR, it is alleged that in the month of February 2024, the informant was abused in the name of his caste. The main allegation is that the informant and the appellants happen to be the neighbours. The informant wanted to construct his house using a common wall with the appellants, which the appellants did not allow. Therefore, the informant constructed the house by keeping some space between two walls. In the said space, the appellants started discharging the obnoxious substances. The informant

therefore requested not to do the same. On that, the incident took place where the informant was abused. The informant though tried to settle the dispute and though tried to take help of the respectable persons of the village, still the appellants did not pay heed to these efforts and ultimately he was required to lodge the FIR.

5. On these allegations, the FIR came to be lodged. Apprehending arrest, the appellants approached the Sessions Court. Their bail application however came to be rejected. The learned Sessions Court observed that the appellants are having two storeyed building. They have given the outlet through plastic pipe for discharging waste from the toilet and bathroom. It is because of this, there is obnoxious smell coming on the side of the informant. The learned Sessions Court observed that the offence is made out and in view of Section 18 of the SC and ST Act refused to grant bail.

6. It is the case of the appellant, as appears from appeal memo, that no offence is made out. There is a civil dispute between the parties which is given a criminal colour under the guise of a caste-based offence. The FIR is concocted and fabricated. The same is filed just to harass the

appellants. The houses are not adjacent to each other. There is open space in between two houses.

7. Learned APP submits that, a clear case is made out under Section 3(1)(r) of the SC and ST Act. The FIR substantiates the allegations. The reason for delay in lodging the complaint is also appearing in the FIR. The appellants, after obtaining an ad-interim order, have misused the liberty granted to them and have deliberately avoided appearing before the Court. She prays for rejection of the appeal.

8. Learned Advocate Mr. Gaikwad, appointed through legal aid appearing for Respondent No.2, also opposed the appeal and adopted the arguments of learned APP. He submits that the offence is clearly made out, and in view of Section 18 of the SC and ST Act, no bail can be granted in the event of arrest as there is a bar. He prays for dismissal of the appeal.

9. Having heard the learned Advocate for the Respondent No.2 and the learned APP, and on going through the FIR, this Court finds that a prima facie offence is made out. No perversity or illegality is found in the order passed by the learned Sessions Court. The learned Sessions

Judge has rightly considered the ingredients of Section 3(1)(r) of the SC and ST Act and the contents of the FIR. This Court also, prima facie, finds that offence is clearly made out. No interference is, therefore, required in the order.

10. Considering the bar under Section 18 of the SC and ST Act, this is not a case where anticipatory bail can be granted. The Appeal, therefore, stands dismissed.

11. The learned Advocate for the Respondent No.2 was appointed through High Court Legal Aid Services, Sub-Committee Aurangabad. He shall be entitled to fees as per Rules.

[KISHORE C. SANT, J.]