

IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
BENCH AT AURANGABAD.
APPELLATE SIDE JURISDICTION

CRIMINAL APPLICATION NO. 5674 OF 2015

KRUSHNA S/O NAMDEV BHOSLE
VERSUS
THE STATE OF MAHARASHTRA

...

Advocate for Applicant : Mr. Shailendra S. Gangakhedkar.
APP for Respondent / State : Mr. A. R. Kale.

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CORAM : **INDIRA K. JAIN, J.**

DATE : 16th November, 2015.

ORDER:

. Heard learned counsel for the parties.

2 This is an application for pre-arrest bail under Section 438 of the Code of Criminal Procedure.

3 Applicant is involved in Crime No.261 of 2015 registered at Gangakhed Police Station for the alleged offences punishable under Section 3(1)(xi) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989, section 7(1)(d) of the Protection of Civil Rights Act, section 354-A and 294 of the Indian Penal Code.

4 It is the case of prosecution that Complainant Godawaribai belongs to Scheduled Caste. After the death of her husband she was running a ration shop. On 23rd September, 2015 at about 09:00 am

Applicant had been to her shop and demanded 50 kg wheat. Complainant told him that his mother had already taken away the wheat. On that Applicant uttered caste based abuses to Complainant. It is alleged that Applicant caught hold hand of Complainant with an intention to outrage her modesty. Babasaheb Salve and Bhanudas Salve present in the shop intervened and separated the quarrel. Report was lodged on 24th September, 2015. On the basis of report above said crime was registered against the Applicant.

5 According to Applicant there was delay of one day in lodging report. The delay has not been explained. Complainant has not mentioned her caste in FIR. It is submitted that *prima-facie* offence under the Atrocities Act is not attracted and bar under Section 18 would not be applicable.

6 Per contra, it is submitted on behalf of the State that FIR makes out a *prima-facie* case against the Applicant and since offence under the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act is attracted Applicant would not be entitled for pre-arrest bail in view of statutory bar under Section 18 of the said Act.

7 Learned APP has produced police papers. On perusal of papers of investigation and particularly FIR, statements of witnesses

Babasaheb Salve and Bhanudas Salve it is apparent that Applicant uttered caste based abuses to Complainant and manhandled her with an intention to outrage her modesty. In view of the specific role attributed to Applicant in FIR and the statements of witnesses this Court finds that bar under Section 18 of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act would be attracted and in this premise application deserves to be rejected. Hence the following order:

ORDER

Criminal Application No.5674 of 2015 stands rejected.

[INDIRA K. JAIN, J.]

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