

IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
CRIMINAL APPELLATE JURISDICTION

**CRIMINAL APPLICATION NO. 512 OF 2014**

|                          |     |            |
|--------------------------|-----|------------|
| Nilkanth Mahadeo Mohite  | ... | Applicant  |
| vs.                      |     |            |
| The State of Maharashtra | ... | Respondent |

Mr. Milind A. Ingole for the Applicant.

Mrs. A.A.Mane, APP for State.

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**CORAM : SMT. SADHANA S. JADHAV,**  
**J**  
**DATE :22<sup>nd</sup> April, 2016.**

P.C.:

1            Heard the learned counsel for the applicant, who happens to be the original complainant in RCC No.252 of 2014. The complainant has filed a complaint alleging therein that the respondents herein have committed the offence punishable under the provisions of the Scheduled Castes & Scheduled Tribes (Prevention of Atrocities) Act, 1989. Crime No.67/2014 was registered against the accused. The respondents-accused had filed an application under Section 437 of Cr.P.C. Before the Hon'ble High Court. The original accused Nos. 1 and 2 were granted pre-arrest bail by the Hon'ble High Court. The accused

had surrendered before the Judicial Magistrate, First Class, Indapur, Pune, since there was a bar under Section 18 of the said Act. After they have surrendered, the learned Judicial Magistrate, First Class, Indapur had taken them into custody. They were enlarged on bail on furnishing P.R. Bond in the sum of Rs.15,000/- by an order dated 19.9.2014.

2           The learned counsel for the applicant, at the threshold, has submitted that he is seeking cancellation of bail granted vide order dated 19.9.2014 since, according to the learned counsel, the learned Magistrate had granted anticipatory bail to the respondents. Prayer clause (b) of the application reads as follows :-

*“(b) This Hon'ble Court may be pleased to call the papers and proceedings from the Hon'ble District Judge – Baramati and direct to investigation agency to arrest the Respondent/Accused within 7 days from the date of order.”*

3.     Needless to say that in the present case, notice was issued to the respondents on 14.11.2014. However, the learned counsel for the applicant had not furnished spare copies. The

learned counsel for the applicant had also circulated the matter before this Court (Smt. Sadhana S. Jadhav, J.) for 30.1.2015. However, the office note shows that spare copies were not supplied and hence the matter was listed in "Order Category". It appears that till today, the spare copies have not been supplied by the learned counsel for the applicant. In fact, this application deserves to be dismissed for want of compliance of office objections. However, as on today, the learned counsel has pressed this application into service with misconceived notions that the learned Judicial Magistrate, First Class, Indapur had not actually taken the accused into custody and, therefore, he submits that bail granted to the respondents vide order dated 19.9.2014 be cancelled.

4. It appears that the applicant herein is a journalist and a reporter of 'Dainik Bhaskar' newspaper. The learned counsel submits that there is a bar under Section 18 of the said Atrocities Act and yet the learned Magistrate has granted bail to the respondents. According to him, this Court (Coram: Mrs. Mridula Bhatkar, J.) had granted liberty to the respondents to file a fresh application before the Sessions Court since the

application seeking pre-arrest bail was rejected by the Sessions Court vide order dated 19.9.2014. According to the learned counsel, the respondents have not complied with the order of the Hon'ble High Court and have instead appeared before the Judicial Magistrate, First Class, Indapur. Needless to state that the Court of Judicial Magistrate, First Class, Indapur, would be the Court of first instance and even if the accused were arrested by the police, they would have to be produced before the Judicial Magistrate, First Class, Indapur. In this case, there was no question of arresting the accused as they had voluntarily surrendered before the Judicial Magistrate, First Class and were granted bail by the Judicial Magistrate, First Class, Indapur. Appearance before the Court would be deemed custody and hence the applicant was released under Section 437 Cr.P.C. Since the learned counsel has not furnished spare copies, not complied with the orders of this Court, notice could not be served. There are lapses on the part of the learned counsel for the applicant. Moreover, the application has been filed under a misconceived notion.

5. Hence, the application being sans merits,deserves to be rejected.

**(SMT. SADHANA S. JADHAV, J)**