

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO.231 OF 2018

Vinod Govind Satpute	...	Appellant
V/s.		
The State of Maharashtra & Anr.	...	Respondents

Mr.R. G. Panchal, Advocate for the Appellant.

Ms. Anamika Malhotra, APP for the Respondent/State.

Mr.Kafil Ahmed Khad, Advocate for the respondent No.2.

CORAM : A.M.BADAR J.

DATED : 18th JUNE 2018.

ORAL JUDGMENT :

1 This is an appeal under Section 14-A of the Scheduled
Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989
(hereinafter referred to as 'Atrocities Act' for the sake of brevity)
and the Order challenged in the instant appeal is dated
01/12/2016 passed by the learned Special Judge under the
Atrocities Act. The Order impugned is granting bail to the
respondent No.2/original accused in crime No.237 of 2016 for
offences punishable under Section 323 and 506 of the Indian
Penal Code as well as under Section 3(1)(x) and 3(1)(v) of the
Atrocities Act.

2 Heard the learned Advocate appearing for the appellant/First Informant at sufficient length of time. He vehemently argued that he is aggrieved by the Order granting regular bail to the accused as provisions of Sub-Section (5) of Section 15-A of the Atrocities Act, 1989 were not complied in the matter and no notice of hearing on bail application was ever issued to the First Informant. He also argued that provisions of Sub-Section (3) of Section 15-A of the Atrocities Act are also not followed while granting regular bail to the respondent No.2/accused. The learned Advocate further argued that the Investigating Officer, in the remand application, has stated that there are only two offences registered against the respondent No.2, whereas information obtained under Right to Information Act shows that in all five offences are registered against the respondent No.2/original accused and, therefore, he ought not to have been released on bail by the learned Special Judge.

3 I also heard the learned Additional Public Prosecutor in the matter. Upon being asked, the learned Additional Public Prosecutor states that the Order releasing the respondent No.2/accused is not challenged by the State.

4 The learned Advocate for the respondent No.2/accused argued that almost all offences registered against the respondent No.2 are at the instance of appellant/First Informant, who is an Advocate by profession. The learned Advocate for the

respondent/accused further argued that the appellant is in habit of filing such complaint against the respondent No.2 as they are neighbours.

5 I have carefully considered the rival submissions and also perused the record made available. The offences alleged against the respondent No.2 are under Section 3(1)(x) as well as under Section 3(1)(v) of the Atrocities Act, 1989, but the alleged incident in question took place on 13/10/2016. The learned Advocate for respondent No.2/accused submitted that now investigation is over and charge-sheet has been filed on 08/12/2016. Therefore, this Court hopes that the charge, if any, under correct Section would be framed against the respondent. Obviously, that will be subject to the decision on application for discharge filed by the accused. Therefore, nothing more is required to be added on this aspect.

6 Offences punishable under Sections 323 and 506 of the Indian Penal Code are bailable in nature. Bail can be claimed in such offences as a matter of right. Offences under Atrocities Act are non-bailable in nature. However, what was granted to the respondent No.1/original accused is bail and not anticipatory bail. The impugned Order takes care of interest of the prosecution as the learned trial Court has directed the respondent No.2/accused to appear before the Investigating Officer on every Friday in between 2.00 p.m. to 5.00 p.m. till filing of charge-sheet. He is

further directed that he should not tamper with evidence of the prosecution and shall not extend any threat to the witnesses. As such, it cannot be said that the learned trial Court has not taken into consideration antecedents, if any, of the respondent No.2/accused in the matter.

7 It is reported that the respondent No.2 was arrested on 30/11/2016. He moved application for bail. The record shows that say of the prosecuting agency was called and after hearing both the sides, Order releasing the applicant on bail came to be passed.

8 No doubt, under provisions of Section 15-A of the Atrocities Act, the victim or his dependent have right to participate in such proceedings, but what is contemplated is an opportunity of hearing in the matter. In the case in hand, undisputedly, no application either for assisting the prosecution or an application for intervention for opposing the bail came to be filed by the First Informant, who himself is an Advocate by profession. Independent notice notifying the First Informant in the fact of such case was not at all warranted.

9 In the result, no case for interference in the impugned Order is made out. The appeal is, therefore, dismissed.

(A.M.BADAR J.)