

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL (ST) NO.202 OF 2019

The State of Maharashtra

...Appellant

V/s.

Shobha Ganpati Gavade

...Respondent

Mr. S.V. Gavand, APP for the Appellant/State.

CORAM : A.M.BADAR, J.

DATED : 4th MARCH 2019

ORAL JUDGMENT:

1. Today by order on separate application, delay in filing this appeal is condoned.
2. Heard the learned Additional Public Prosecutor.
3. Considering the fact that the appeal is under Section 14A of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 challenging grant of anticipatory bail to the respondent/accused, the appeal is admitted. Heard finally.

4. Crime No.48 of 2018 for offences punishable under Section 3(1)(r)(s) of the Atrocities Act, under Section 7 of the Protection of Civil Rights Act, 1955 so also under Sections 436 and 506 read with Section 34 of the Indian Penal Code came to be registered against accused persons including respondent Shobha @ Pushpa Gavade on the basis of report lodged by Seema Dahale. The learned Additional Public Prosecutor vehemently argued that the FIR itself shows commission of offences punishable under the Atrocities Act, and therefore, the learned Special Judge ought not to have granted anticipatory bail to the respondent/accused vide impugned order dated 14th December 2018 in Criminal Miscellaneous Application No.1161 of 2018. He argued that bar of Section 18 prohibits passing of such order by the learned Special Court.

5. I have considered the submissions so advanced and perused the papers of investigation.

6. First Informant/Seema Dahale lodged FIR on 24th October 2018 to the effect that by some unregistered documents, her

family had purchased some land from co-accused Tukaram Patil. Tukaram Patil, however, was insisting her family to return the land so purchased. The First Informant averred that the respondent/accused tried to intervene and settle the dispute between them. It is further averred in the FIR that on 23rd October 2018, the respondent/accused came to the spot and started snapping photographs. When she was objected, she went in front of house of co-accused Tukaram Patil and from there, she started giving castiest abuses to the First Informant. As per averment in the FIR, roof of the house of the First Informant caught fire. The First Informant suspected that accused persons might have set it ablaze.

7. Perusal of the FIR as well as papers of investigation does not show that the incident in question took place in presence of any independent public witness. It is not averred in the FIR that the respondent/accused Shobha @ Pushpa Gavade does not belonging to either scheduled caste or scheduled tribe.

8. In this view of the matter, as I am unable to find out any

infirmity in the impugned order granting application for anticipatory bail to the respondent/accused, therefore, the order:

ORDER

The appeal is dismissed.

(A.M.BADAR J.)