

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPEAL NO. 1414 OF 2018**

Bajirao Gangaram Deshmukh,
Adult Indian, Occ.-Service
Residing at-
At post Bhatshirgaon, Taluka Shirala,
Dist. Sangli, Maharashtra

...Appellant

Versus

1. State of Maharashtra,
(At the instance of
Senior Inspector of Police,
Shirala Police Station)

2. Mangal Rajaram Yadav,
Age : 44 Yrs., Occu:Service,
Dist.: Sangli, Presently Residing at,
Tal: Shirala, District : Sangli

...Respondents

Ms. Vallari W. Jathar for the Appellant

Mr. S. V. Gavand, A.P.P for the Respondent No.1-State

Ms. Anu C. Kaladharan, appointed Advocate for the Respondent No. 2

CORAM : REVATI MOHITE DERE, J.
TUESDAY, 9th APRIL 2019

ORAL ORDER :

1 Heard.

2 Admit. Respondents waive notice through their respective counsel. By consent, appeal is taken up for final disposal forthwith.

3 By this appeal, the appellant (original accused No.1) is seeking pre-arrest bail in connection with C.R. No. 183/2018 registered with the Shirala Police Station, District Sangli, as against him and other co-accused for the offences punishable under Section 3(1)(r) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act; under Section 7(1)(d) of the Protection of Civil Rights Act and under Section 506 r/w 34 of the Indian Penal Code. The appellant is also challenging the order dated 15th November 2018 passed by the learned Special Judge, Islampur in Criminal Miscellaneous Bail Application No. 243/2018, by which, his application for pre-arrest bail was rejected.

4 Learned counsel for the appellant states that the allegations as against the appellant are false and baseless. She submits that no offence as alleged is made out as against the appellant. She

further submits that Pooja Vibhute, identically placed co-accused in the aforesaid C.R. was granted pre-arrest bail by this Court vide order dated 7th February 2019. She has tendered a copy of the said order dated 7th February 2019 passed in Criminal Appeal No. 1416/2018.

5 Learned A.P.P does not dispute the fact that the role of the appellant was similar to that of co-accused Pooja Vibhute, who has been granted pre-arrest bail.

6 Ms. Anu Kaladharan was appointed to espouse the cause of the respondent No.2/complainant. Ms. Kaladharan has tendered an affidavit in reply of the respondent No. 2. The same is taken on record. According to the learned counsel for the respondent No. 2, despite several complaints having been made by the respondent No.2 to various Authorities, no cognizance of the same was taken by the Authorities. She submitted that when the respondent No. 2 was on leave in September 2018, the School, where the appellant was teaching Standards 5, 6 and 7 was shut down. According to the learned counsel, no official communication or intimation was given to

the respondent No. 2. She further submitted that no interference is warranted in the impugned order dated 15th November 2018 passed by the learned Special Judge, Islampur by which appellant's pre-arrest bail application was rejected.

7 Perused the FIR. It is not in dispute that the complainant was serving as a Primary Teacher in the Zilla Parishad School at the relevant time. It appears that the respondent No. 2 had joined the said Zilla Parishad School at Sangli in June 2018 after she was transferred from Satara District on 13th June 2018. It also appears that she was teaching Standards 5, 6 and 7. It also appears that in September 2018, the School was shut down and the children who were studying in Secondary School were transferred to some other School. Respondent No. 2 has alleged in her FIR that co-accused Pooja Vibhute gave School Leaving Certificates of Standards 5 and 6, when she was on leave for a period of one month. According to the respondent No.2, Pooja Vibhute used indecent language and insulted her and had alleged that the respondent No. 2 had not taken any programmes in the School.

8 As far as the present appellant is concerned, a perusal of the FIR shows that when she had visited the appellant who was the Block Development Officer to complain against Pooja Vibhute and Chairman of the Managing Committee Dadaso Patil, the appellant allegedly stated that they were going to shut down 5th and 6th Standards and that she should not act smart. The appellant is also alleged to have stated that she should do what he tells her and stated that she had come on a reserve seat and therefore she should listen to him and has also alleged to have threatened her.

9 There are no allegations in the FIR to show that any words were uttered on the basis of her caste. Similarly, there are no averments in the FIR to show that the appellant does not belong to the SCST category. Even the FIR is silent regarding the caste of the respondent No. 2. *Prima facie* the FIR does not reflect any intentional insult or intimidation done with the intent to humiliate a member of the Scheduled Caste or Scheduled Tribe in any place within public view. The alleged allegations made against the appellant do not

appear to have been made in public view. Hence, *prima facie*, the bar of Section 18 as well as 18-A of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act is not attracted. It is also not in dispute that co-accused Pooja Vibhute has also been enlarged on bail by this Court (Coram : A. M. Badar, J.) vide order dated 7th February 2019 passed in Criminal Appeal No. 1416/2018.

10 In this view of the matter, the appeal deserves to be allowed. Hence, the following order :

ORDER

- (i) The appeal is allowed;
- (ii) The impugned order dated 15th November 2018 passed by learned Additional Sessions Judge, Islampur in Criminal Miscellaneous Bail Application No. 243/2018, is hereby quashed and set-aside;
- (iii) In the event of arrest, the appellant be enlarged on bail on furnishing P.R. Bond in the sum of Rs. 15,000/- with one or two sureties in the like amount;

(iv) The appellant shall not threaten or intimidate the respondent No. 2 or any other person concerned with the case.

11 Appeal is disposed of on the aforesaid terms.

12 I would like to record a word of appreciation for the able assistance provided by Ms. Anu Kaladharan, appointed Advocate for the respondent No.2.

13 High Court Legal Aid Services Committee to award fees of the learned appointed Advocate as per Rules.

REVATI MOHITE DERE, J.