

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**CRIMINAL APPELLATE JURISDICTION****CRIMINAL APPEAL NO. 1146 OF 2019**

Sameer Satyawar Thale and Anr. .. Appellant

Versus

The State of Maharashtra and Anr. .. Respondents

...

Mr. Nitin Sejpal a/w Ms. Pooja Sejpal a/w Ms. Desai for the Applicant.

Ms. Pallavi Dabholkar, APP for the Respondent/State.

B.N.Pawar SD PO Shrivardhan, Division, Dist Raigad present.

CORAM: P. N. DESHMUKH, J.

DATED : 7th OCTOBER, 2019.

P.C:-

1. This appeal is preferred under amended provisions of Sec. 14 of the Scheduled Caste and Scheduled Tribes (Prevention of Atrocities) Act 1989 by the Appellant for bail by default as right for his release on bail accrued in his favour, on expiry of 60 days period within which no charge-sheet is filed though it was necessary to be filed within this period before Competent Court.

It is therefore submitted that though Appellant has right for his
Yugandhara patil

release on bail by default, the learned trial Judge refused his application and had therefore prayed that the application be allowed.

2. Admittedly, appellant is arrested on 21st July 2019 in Crime No.I-19 of 2019 registered by Shrivardhan Police Station and was produced before Magistrate on 22nd July 2019. Accordingly period of 60 days expires on 20th September, 2019.

3. At this juncture, it is to be noted that according to FIR, incident took place in the night of 20th July 2019 at 9.15 p.m., when complainant who is male nurse working in Government hospital alleged that appellant alongwith others, abused him on caste basis when he demanded Rs.10/- as case paper fees and in the course of same transactions assaulted complainant and others by fist and kicks blows and looted his white metal chain valued for Rs. 1000/- . Based on such information, offence came to be registered for the offence punishable under sections 353, 392,332,323, 504,506, 427 r/w 34 of Indian Penal Code and for the offence punishable under Section 3(1)(r), 3(1)(s) of Scheduled Caste and Scheduled Tribes

Yugandhara patil

(Prevention of Atrocities) Act 1989.

4. It is thus noted that maximum punishment which can be attracted in the present crime is upto 10 years for the offence punishable under section 392 of Indian Penal Code.

5. Learned Counsel for Appellant in support of above facts relied upon the law in the case of ***Rakesh Kumar Paul Vs. State of Assam (2018) 1 Supreme Court Cases (Cri) 401*** where in similar set of circumstances petitioner having found to face imprisonment which may extend upto 10 years (i.e. maximum sentence) was found entitled for default bail since statutory period of 60 days for filing charge-sheet had already expired.

6. In the instant appeal, as stated aforesaid, though period of 60 days which is attracted to file charge-sheet, has expired on 20th September 2019. Learned APP on instructions from Investigating Officer who is present in the Court makes statement that charge-sheet is filed on 26th September 2019. To this effect, in fact record would establish that the learned trial Judge before passing impugned order, got verified from *Yugandhara patil*

Superintendent of concerned Court, if charge-sheet was filed on or before 20th September, 2019 to which concerned superintendent had submitted his report that no such charge-sheet was filed. In that view of the matter, since it is established beyond reasonable doubt that charge-sheet in Crime No. I-19 of 2019 is filed after lapse of 60 days period, appellant is entitled to default bail. Accordingly appeal is allowed as per order below.

ORDER

1. Applicants shall be released on bail on their executing P. R. Bond in the sum of Rs. 25,000/- each with one surety each in the like amount.
2. Appellants shall not tamper any witnesses pending the trial.
3. Application is disposed off as allowed in above terms.

(P. N. DESHMUKH, J.)