

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

CRIMINAL APPEAL NO. 1217 OF 2019

Ashok Sarjerao Pawar

.. Appellant

Versus

The State of Maharashtra & Anr.

.. Respondents

...

Mr. Rahul Kate for the Appellant.

Mrs. M.H. Mhatre, APP for the Respondent No.1 /State.

Mr. Ghanshyam Jadhav for Respondent No. 2.

CORAM: P. N. DESHMUKH, J.

DATED : 21st NOVEMBER, 2019.

P.C:-

1. Appellant involved in Crime No. 379 of 2019 for the offences punishable under Sections 354, 323, 504, 506 r/w 34 of Indian Penal Code and Section 3(1)(W)(i) and (ii), 3(2) (va) of Scheduled Caste and Scheduled Tribes (Prevention of Atrocity) Act has filed this Appeal seeking Anticipatory Bail contending that there is no specific role attributed to applicant by complainant and also on the ground that according to the report, there are no abuses based on the caste alleged to be given to complainant.

2. It is therefore prayed that appeal be allowed. It is also contended that as chargesheet is filed before competent Court, no custodial interrogation of appellant is necessary.

3. Learned Counsel for Respondent No. 2/Complainant opposed application on the ground that there is direct evidence establishing involvement of appellant alongwith other co-accused and apart from complainant, there is statement of independent witnesses who had involved appellant in a subsequent incident dated 14th June 2019 also. It is therefore prayed that appeal be rejected. Learned APP also made same submissions and prayed for rejection of appeal.

4. Perusal of report would reveal that on 15th February 2019, appellant insisted complainant to occupy his four wheeler vehicle and on her refusal for same, insisted complainant to sit in the car forcibly and stated that if she would accompany him, he would provide her flat, mobile etc. Complainant further stated that due to fear, she did not disclose said fact to her husband till March 2019. In the report there is reference to some other insistence on 6th June 2019 and thereafter on 14th June 2019 involving appellant alongwith two other co accused who are admittedly on bail. With reference to the incident dated 14th June 2019, it is revealed in

the FIR that on that day, appellant and two other co accused referred complainant's husband by his caste and also assaulted him by kick and fist blows.

5. Learned Counsel for Respondent No. 2 referred to statement of one Devkar and contended that he is an eye witness to the incident. Perusal of statement of this witness reveal that though he is a witness to incident dated 14th June 2019, he has made general statement involving all accused. As such, from his statement it cannot be stated it is appellant who on that day after assaulting complainant's husband, abused him on caste basis and extended threats.

6. In the background of above facts and for the reasons mentioned above, appeal is liable to be allowed. Moreover, since the charge-sheet is filed and admittedly there are no external injuries found on the person of complainant's husband, though he is medically examined after incident dated 14th June 2019.

7. Accordingly appeal is allowed as per order below.

ORDER

1. In the event of arrest of appellant in Crime No. 379 of

Yugandhara Patil

2019, registered with Indapur Police Station, Pune he shall be released on bail on executing PR. Bond in the sum of Rs. 25,000/- with one surety in the like amount.

2. Appeal is disposed off as allowed.

(P. N. DESHMUKH, J.)