

Anand

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

**CRIMINAL APPEAL NO. 1344 OF 2018**

Mumtaj Salim Shaikh

.Appellant

Vs.

1. The State of Maharashtra .Respondents
2. The Senior Inspector  
Kalyan Taluka Police Station
3. Arun Mahadev Jadhav

Ms Gayatri N. Gokhale, Advocate, for the Appellant

Mr. P. H. Gaikwad, APP, for the Respondent No. 1 – State

Mr. Ujjwal Gandhi, Appointed Advocate, for the Respondent No. 3  
/ Complainant

**CORAM : REVATI MOHITE DERE, J.**

**DATE : 03.04.2019**

**P.C.**

. Heard learned counsel for the parties.

2. Admit.

3. Respondents waive service through their respective  
counsel. By consent, the Appeal is taken up for final disposal.

4. The Appellant has challenged the Order dated 05.09.2018 passed by the learned Additional Sessions Judge, Kalyan in Cri. Anticipatory Bail Application No. 1366 of 2018, by which the Appellant's Application seeking pre-arrest bail was rejected. The Appellant is seeking pre-arrest bail, in connection with C. R. No. I-292 of 2018 registered with the Kalyan Taluka Police Station, District – Thane, for the offences punishable under Section 504 of the Indian Penal Code and under Section 3(1)(r) (s) of the Scheduled Castes and Scheduled Tribes ( Prevention of Atrocities ) Act. This Court granted ad-interim protection to the Appellant vide Order dated 26.02.2019.

5. It appears that the Appellant was granted regular bail in another C. R., being C. R. No. 180 of 2018 also registered with the Kalyan Taluka Police Station, District – Thane on 15.05.2018. The condition imposed by the Sessions Court whilst enlarging the Appellant on bail was that she shall not reside in Sai Ashray Building, Village – Mharal, Taluka – Kalyan for a period of one year from 15.05.2018. It appears that subsequently, the Appellant

filed an Application, being Mis. Application No. 61 of 2018 in the Sessions Court and sought relaxation of the said condition. The learned Additional Sessions Judge vide Order dated 20.06.2018 relaxed the said condition No. 3 imposed upon the Appellant i. e. of not residing in Village – Mharal, Taluka – Kalyan for a period of one year. After the said condition was relaxed, the Appellant started residing in Maral Gaon, Sai Ashray Building near Gamdevi Mandir, Taluka – Kalyan, District – Thane. It appears that on 02.08.2018, Mr. Arun Jadhav ( Respondent No. 3 ) lodged a complaint as against the Appellant alleging offences punishable under Section 504 of the Indian Penal Code and under Section 3(1)(r)(s) of the Scheduled Castes and Scheduled Tribes ( Prevention of Atrocities ) Act. On the basis of the said complaint, the Kalyan Taluka Police Station registered C. R. No. 292 of 2018 and on registration of the Complaint / FIR, the Appellant approached the Sessions Court and sought bail, which was rejected by the learned Sessions Judge on 05.09.2018.

6. Learned counsel for the Appellant submits that there are several disputes between the Appellant and the Respondent

No. 3 / Complainant and that the Appellant has been falsely implicated in the said case. She submits that the allegation / complaint made against the Appellant is similar to the earlier complaints lodged against the Appellant. She submits that the Appellant has also filed cross cases against the residents of the same building. She submits that as the Appellant's family is the sole family, belonging to the Muslim community, she is being harassed by the other residents of the society.

7. Learned counsel for the Respondent No. 3 / Complainant opposes the Appeal. He submits that the Appellant is a troubleshooter and raises quarrels with the residents of the building and as such, disturbs the peace in the society. Learned counsel for the Respondent No. 3 / Complainant submits that Section 8 of the Scheduled Castes and Scheduled Tribes ( Prevention of Atrocities ) Act is applicable to the instant case.

8. Learned APP also does not dispute the fact, that there are several complaints filed by the Appellant against the residents of the society and several complaints lodged by the residents

against her. Learned APP on instructions states that charge-sheet will be filed as expeditiously as possible and in any event, within a period of four weeks from today. Statement accepted.

9. Perused the papers. The Appellant and the Respondent No. 3 – Complainant are residing in the same society. It appears that there are several complaints lodged by the parties as against each other. It is not in dispute that the Appellant's family is the sole family belonging to the Muslim community in the said society, whereas all the other residents are Hindus. It appears that similar complaints have been lodged against the Appellant and that the Appellant has also lodged cases as against the Complainant and other residents of the society. There is hostility and animosity between the parties. In this background, the possibility of the parties falsely implicating each other cannot be ruled out. Hence, Appeal needs to be allowed.

10. Having regard to the aforesaid, the following order is passed.

**O R D E R**

- (i) The Appeal is allowed;
- (ii) The order dated 05.09.2018 passed by the learned Additional Sessions Judge, Kalyan, District – Thane in Order below Exh. 1 in Anticipatory Bail Application No. 1366 of 2018 is quashed and set aside;
- (iii) In the event of arrest, the Appellant be enlarged on bail on her furnishing P. R. Bond in the sum of **Rs. 20,000/-** with one or more sureties in the like amount;
- (iv) The Appellant shall not enter the society till filing of the charge-sheet or for a period of four weeks from today, whichever is earlier;
- (v) The Appeal is, accordingly, disposed of.

All concerned to act on the authenticated copy of this order.

**(REVATI MOHITE DERE, J.)**