

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO.1416 OF 2018

Sau. Pooja Vibhute,

Age : 39 years, Occu. : Service,

R/ast : Shirala, Taluka – Shirala,

District – Sangli.

... **Appellant**

V/s.

1. The State of Maharashtra,
Through Investigating Officer,
C.R.No.183 of 2018 registered
with Shirala Police Station,
Sangli.

2 Mangal Rajaram Yadav,
Alias Smt. Mangal Sudhir Kamble,
Age : 43 years, Occu. : Service,
R/at: C/o.S.R.Kamble Sir,
Gorakshnath Colony, Nath Road,
Galli No.3, Shirala, Taluka – Shirala,
District – Sangli.

... **Respondents.**

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Mr.Sachin S. Padaye i/b. Mr.Girish R. Agrawal, Advocate for the
Appellant.

Mrs.M.R.Tidke, APP for the Respondent No.1/State.

....

CORAM : A.M.BADAR J.

DATED : 7th FEBRUARY 2019.

ORAL JUDGMENT :

1 By this appeal, the appellant/accused No.1 in Crime
No.183 of 2018 registered against her along with co-accused at

Police Station, Shirala, District Sangli at the instance of respondent No.2 for the offence punishable under Section 3(1)(r) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 (hereinafter referred to as 'Atrocities Act' for the sake of brevity), under Section 7(1)(d) of the Protection of Civil Rights Act, 1955 as well as under Section 506 read with Section 34 of the Indian Penal Code is challenging the Order dated 15/11/2018 passed by the learned Special Judge, Islampur in Criminal Miscellaneous (Bail) Application No.244 of 2018 thereby rejecting her claim for anticipatory bail.

2 Heard the learned Counsel appearing for the appellant/accused No.1, the learned Additional Public Prosecutor for the respondent No.1/State. The respondent No.2/First Informant is absent despite service.

3 Admit.

4 Heard finally considering the fact that the appeal is pertaining to rejection of the claim of the appellant/accused No.1 for anticipatory bail.

5 The learned Counsel appearing for the appellant/accused No.1 read out the FIR and argued that the respondent No.2/First Informant was reluctant to accept the charge of the Headmistress of the school.

6 The learned Additional Public Prosecutor opposed the appeal.

7 I have considered the submissions so advanced and also perused the FIR.

8 Averment in the FIR shows that the respondent No.2/First Informant is in employment of a private school. She was transferred to the school at village Red in Shirala Taluka of Sangli District where the appellant/accused No.1 was serving as a teacher. Headmistress Mrs.Mane from that school was subsequently transferred and the post of Headmistress was fallen vacant. The appellant/accused No.1 took charge of the post of Headmistress of that school. However, subsequently, the Chief Executive Officer, Zillha Parishad, Sangli directed that charge of the post of Headmistress of the school be handed over to the senior-most teacher. The averments in the FIR shows that the respondent No.2/First Informant was the senior-most teacher in the school. She was directed to take charge by the appellant/accused No.1 and President of School Management Committee. Accordingly, she took the charge of the post of Headmistress. Grievance of the respondent No.2/First Informant, as reflected in the FIR, is to the effect that she was being insulted and mentally harassed by President of the Management Committee of the School viz. Dadasaheb Patil i.e. accused No.2 so

also by the appellant/accused No.1, who was working as Assistant Teacher in the school. It is averred in the FIR that the appellant/accused No.1 had given School Leaving Certificates to the students of 5th and 6th Std. of the school when the respondent No.2/First Informant was on leave for a period of one month. It is averred by the respondent No.2/First Informant that indecent language was used by the appellant/accused No.1 for insulting her. It is alleged against her that she had not undertaken any programme in the school.

9 The entire FIR is silent regarding caste of the respondent No.2/First Informant. As such, it is not clear whether the respondent No.2/First Informant belongs to the scheduled caste or scheduled tribe. Similarly, there are no averments in the FIR that the appellant/accused No.1 is not a member of the scheduled caste or scheduled tribe. Averments in the FIR does not reflect intentional insult or intimidation with an intent to humiliate a member of scheduled caste or scheduled tribe in any place within public view. As such, in the light of Judgment of the Honourable Apex Court in the matter of ***Gorige Pentaiah v. State of Andhra Pradesh & Ors***¹ no case under the Atrocities Act is made out. The bar of Section 18 as well as Section 18-A of the Atrocities Act, as such, is not attracted. The learned trial Court has committed error of law in this regard by holding that in view of bar of Section 18 of the Atrocities Act, anticipatory bail cannot

1 (2008) 12 Supreme Court Case 531.

be granted. So far as other offences are concerned, the custodial interrogation of the appellant/accused No.1 is not warranted. Therefore, the Order :

ORDER

- (i) The Appeal is allowed.
- (ii) The impugned Order dated 15/11/2018 passed by the learned Special Judge, Islampur below Exhibit 1 in Criminal Miscellaneous (Bail) Application No.244 of 2018 rejecting the claim of anticipatory bail of the appellant/accused No.1 is quashed and set aside.
- (iii) The Criminal Miscellaneous (Bail) Application bearing No.244 of 2018 moved by the appellant/accused No.1 for grant of anticipatory bail is allowed.
- (iv) In the event of arrest of the appellant/accused No.1 in Crime No. 183 of 2018 registered with Shirala Police Station, District Sangli at the instance of respondent No.2 Mangal Rajaram Yadav, the appellant/accused No.1 be released on bail on her executing P.R.Bond in the sum of Rs.15,000/- and on furnishing surety in the like amount.
- (v) As a condition of this order, the appellant/accused No.1 should not repeat commission of similar offence in future.

(vi) As a condition of this Order, the appellant/accused No.1 shall not extend any threat inducement or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the Court or to any police officer.

(vii) The Appeal is accordingly disposed of.

(A.M.BADAR J.)