

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.

CRIMINAL APPEAL NO.582/2019

Naushad Ahmed

VERSUS

State of Maharashtra, through PSO P.S. Mana, Distt. Dist. Akola and Anr.

Office Notes, Office Memoranda of
Coram, appearances, Court's Orders
or directions and Registrar's order

Court's or Judge's Order

Mr. Amol S. Mardikar, Advocate for the appellant.
Mr. N.R. Rode, A.P.P. for the respondent/state.

CORAM : V. M. DESHPANDE, J.

DATED : SEPTEMBER 18, 2019

1. This is an appeal under Section 14A of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 challenging the order passed by the learned Special Judge, Akola on 14.08.2019 below Exh.13 by the Court below in Sessions Trial No.175/2016 by which the application filed on behalf of the present appellant for bail was rejected.

2. Heard Mr. Amol S. Mardikar, the learned counsel for the appellant and Mr. N. R. Rode, the learned Additional Public Prosecutor for the State.

3. It is the submission of the learned counsel for the appellant Mr. Mardikar that only on one date the appellant was absent and therefore, the Court below ought not to have issue non-bailable warrant against the appellant and the Court below ought to have released the appellant on bail in view of the fact that on earlier occasion the appellant was released on bail on merit of the matter.

4. In view of the report lodged by respondent no.2 on 13.07.2016, an offence was registered against the appellant for the offence punishable under Sections 354, 324 of the Indian Penal Code and under Section 3(1)(r)(s)(w) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act. The appellant was arrested on the day of incident itself and the learned Court below granted bail in favour of the appellant on 06.08.2016.

5. The case thereafter was registered as Sessions Trial No.175/2016. The appellant was not attending the Court inspite of framing of the charge and the programme for the session trial was issued on 11.09.2018. The learned Judge of the Court below issued non-bailable warrant on 30.07.2019. On execution of the same the appellant was arrested. After the arrest the application for bail was filed and which was rejected. Therefore, this appeal

6. The appellant was released on bail on 06.08.2016. The charge was framed on 13.06.2017 and notice programme of trial was published on 11.09.2018. Since the appellant was released on bail, it was his duty to attend each and every date of the sessions trial. However, he appeared only on 07.02.2019 and thereafter on three dates he chose not to remain present before the Court. However, applications for personal exemption were made and those were granted. Lastly also when it was expected that the appellant should remain present, on that day also the appellant chose not to remain present and chose to file application for personal exemption which in my view rightly rejected by the Court below.

7. The sessions trial is stuck up only because of the act of the present appellant of not remaining present before the Court though charge was framed on 13.06.2017. In my view in order to procure presence of the appellant the Court below has rightly issued non-bailable warrant.

8. The appellant, as it appears, works as waiter at Kolkata. Therefore, he is not resident of Akola. In that view of the matter it will be difficult to procure his presence. In that view of the matter I reject this appeal.

9. It is expected that the trial Court shall give precedence to the Sessions Trial, the appellant being under trial.

JUDGE