

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY**

**CRIMINAL APPELLATE JURISDICTION**

**CRIMINAL APPEAL NO.441 OF 2019**

**GIRISHKUMAR AMRUTLAL DUBEY AND ANR.)...APPELLANT**

**V/s.**

**THE STATE OF MAHARASHTRA AND ANR. )...RESPONDENTS**

Mr.P.M.Dabade, Advocate for the Appellant.

Mr.S.V.Gavand, APP for the Respondent - State.

**CORAM : A. M. BADAR, J.**

**DATE : 9<sup>th</sup> MARCH 2020**

**ORAL JUDGMENT :**

1 By this appeal under Section 14A of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 (hereinafter referred to as S.C.S.T. (Prevention of Atrocities) Act for the sake of brevity), appellants/original accused are challenging the order dated 27<sup>th</sup> February 2019 passed by the learned Additional Sessions Judge, Kalyan, thereby rejecting the

application for anticipatory bail filed by them in Crime No.I-358 of 2018 registered with Kalyan Taluka Police Station for offences punishable under Sections 420, 323, 143, 147, 149, 504, 506 of the Indian Penal Code as well as under Section 3 of the S.C.S.T. (Prevention of Atrocities) Act.

2            Heard the learned counsel appearing for appellants/accused. By drawing my attention to the First Information Report (FIR) dated 19<sup>th</sup> September 2018, it is argued that the offence alleged is in respect of transaction of civil nature and co-accused have already been granted anticipatory bail by the learned Additional Sessions Judge. My attention is drawn to the order dated 27<sup>th</sup> February 2019 passed in Anticipatory Bail Application No.1819 of 2018 thereby granting anticipatory bail to the co-accused. It is further urged that the learned trial court erred in rejecting a similar application of the present appellants/accused. It is further contended that the appellant no.1, prior to the incident in question, had lodged report of offences punishable under Sections 447, 383, 427, 504 of the

Indian Penal Code against the First Informant in this case and accordingly, crime for offences has been registered with Police Station Murbad on 8<sup>th</sup> March 2018.

3           The learned APP opposed the appeal by contending that specific acts constituting the offence under the S.C.S.T. (Prevention of Atrocities) Act are alleged against appellants/accused, and therefore, in view of bar of Section 18 as well as Section 18A of the said Act, no anticipatory bail can be granted to appellants/accused.

4           I have considered the submissions so advanced and also perused the FIR as well as the impugned order.

5           The learned Additional Sessions Judge while rejecting the application for anticipatory bail, by the impugned order dated 27<sup>th</sup> February 2019, has observed utterances of appellants/accused persons and categorically held that offences punishable under Sections 3(1)(f)(g)(r) and (s) of the S.C.S.T. (Prevention of

Atrocities) Act are made out from the FIR, and therefore, in view of bar of Section 18 of the said Act, anticipatory bail cannot be granted.

6           Perusal of the FIR goes to show that casteist abuses were made against the First Informant by both appellants/accused. It is further averred in the FIR that the First Informant was assaulted by both appellants/accused by giving casteist abuses to him in a public place.

7           In this view of the matter, it cannot be said that the impugned order is not in consonance with law.

8           The appeal, therefore, fails and is accordingly dismissed.

**(A. M. BADAR, J.)**