

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

CRIMINAL APPEAL NO. 112 OF 2020

1. Balaji Uttam Bawane,
Age about 32 years, Occ.: Fisherman,
R/o Jaamnaik No. 1, P.S. - Khandala,
Tal – Pusad, District – Yavatmal
2. Anil Kisan Bawne,
Age about 27 years, Occ.: Fisherman,
R/o Jaamnaik No. 1, P.S. - Khandala,
Tal – Pusad, District – Yavatmal

.... **APPELLANTS**

// VERSUS //

1. State of Maharashtra,
Through P.S.O., P.S. Khandala,
Tah. Pusad, District – Yavatmal.
2. Bhimrao Chintaman Paikrao,
Age about 25 years, Occ.: Watchman,
R/o Isapur Dharan, P.S.- Khandala,
Tal – Pusad, District – Yavatmal

.... **RESPONDENTS**

Shri P.V. Navlani, Advocate for appellants.
Shri S.D. Sirpurkar, A.P.P. for respondent no.1.
Shri Abdul Subhan , Advocate h/f Shri Abdul Bashir, Advocate for respondent no.2.

CORAM : VINAY JOSHI, J.
DATED : 01/12/2020.

ORAL JUDGMENT :

Heard.

ADMIT. Considering the issue involved in the matter and by consent of the learned Counsel appearing for the parties, Appeal is taken up for final disposal.

2] This is an appeal challenging the order of rejection of pre-arrest bail dated 07.01.2020 passed by the Additional Sessions Judge, Pusa in Crime No. 276 of 2019 relating to the offence punishable under Sections 143, 147, 149, 323, 324, 506 of the Indian Penal Code and Section 3(1)(R), 3(1)(S) and 3(2) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 (herein after referred as “the SC and ST Act 1989 ”).

3] Learned Counsel appearing for the appellant submit that the contents of F.I.R. even if taken at its face value it does not disclose the ingredients to constitute the offence punishable under the SC and ST Act, 1989. He would submit that the co-accused having similar role, have already been released by the Sessions Court on bail.

4] Moreover, it is submitted that the F.I.R. no where ascribes a distinct role to the applicant as well as the allegations are of vague nature. Learned A.P.P. resisted to grant bail by stating that the offence is of serious

nature.

5] F.I.R. discloses that there are general allegations against number of persons allegedly uttering the name of caste. The allegations of beating are also of general nature. While granting interim protection, this Court has taken a note that the caste refer in F.I.R. as “Bouddha” which is not mentioned in the Constitution (Scheduled Castes) Order 1950. Already, interim protection is granted to the appellant vide order dated 21.02.2020 by this Court. The affidavit-in-reply does not disclose any reason to show that the accused have breached or mis-used the liberty which was already granted.

6] Having regard of all these facts, appellants have made out a case to grant pre-arrest protection. In the circumstance, following order is passed :

- (a) The Criminal Appeal stands allowed.
- (b) The impugned order dated 07.01.2020 passed by the Additional Sessions Judge, Pusad in Miscellaneous Criminal Application No. 263 of 2019 is hereby quashed and set aside.
- (c) The interim protection granted to the appellant vide order dated 21.02.2020 is hereby made absolute.

7] The Appeal stands allowed and disposed of accordingly.

JUDGE

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