

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

CRIMINAL APPEAL NO. 265/2020

1. Smt. Kalpana Santoshrao Wadhai,
Aged 46 years, Occ. Labour,
 2. Darshan Santoshrao Wadhai,
Aged 23 years, Occ. Student,
 3. Ku. Rinku @ Rani Santoshrao Wadhai,
Aged 21 years, Occ. Student,
- All R/o Rasulabad Tahsil Arvi,
District Wardha.

.... APPLICANTS

// VERSUS //

1. The State of Maharashtra,
through PSO, Pulgaon.
2. Smt. Shobha Gajanan Pandre,
Aged about 29 years, Occ. Anganwadi,
Assitt., R/o. Ward No. 2, Rusalabad,
Dist. Wardha, P. S. Pulgaon.

.... RESPONDENTS

Shri A. M. Quazi, Advocate for applicants.
Shri N. H. Joshi, Addl. Public Prosecutor for respondent.

CORAM : VINAY JOSHI, J.

DATED : 22.10.2020

JUDGMENT

Hearing was conducted through Video Conferencing and the learned counsel agreed that the audio and visual quality was proper.

2. Heard.

3. Admit.

4. The appellants have urged before the Sessions Court for grant of pre-arrest bail, however it was rejected vide order dated 30.06.2020. Being aggrieved by the said order of rejection of pre-arrest bail, this appeal has been filed under Section 14-A of the Scheduled Caste and Scheduled Tribes (Prevention of Atrocities) Act.

5. The appellants have reason to believe that they would be arrested in Crime No. 320/2020 under Sections 354, 354-A, 323, 504 and 506 of read with Section 34 of the Indian Penal Code and Sections

3(1)(w-i)(3)(2)(v) and 3(1)(r)(s) and 3(2) of the Scheduled Caste and Scheduled Tribes (Prevention of Atrocities) Act.

6. At the instance of First Information Report lodged by a lady aged 29 years, the crime was registered. It is her contention that on the date of incident i.e. on 18.06.2020, all the appellants along with husband of appellant No. 1 namely Santosh have abused and manhandled her. It is specific contention that initially Santosh (released on regular bail) picked up a quarrel in which he abused informant in the name of caste, torn her clothes and beat her. Within short time, the appellants have joined the quarrel in which they also beat informant by feast blow and gave casteist abuses.

7. Learned counsel for the appellants pointed out that though the Trial Court refused to grant pre-arrest protection, however thereafter this Court has granted interim protection which is extended till today. It is submitted that the entire complaint is false and to substantiate said contention, the appellants have produced copy of death certificate of informant's husband namely Gajanan who died on 07.12.2013. It is submitted that as per First Information Report, the entire quarrel erupted at the instance of informant's husband Gajanan

therefore, he would submit that the entire story is totally false. Learned Additional Public Prosecutor is quick enough to respond that the informant has mistakenly named her erstwhile husband's name in the complaint and therefore, it is merely a mistake.

8. Having re-look to the First Information Report, the informant has specifically stated that on 13.04.2020, her husband Gajanan Pandhare had gone to Yavatmal to meet his mother. Further, she stated that on 18.06.2020, co-accused – Santosh quarreled with Gajanan. Undisputedly, informant's husband Gajanan died long back in the year 2013. It is hard to digest that despite death of Gajanan, the informant committed mistake in stating the name of her own husband. There appears to be substance in the contention raised by the appellants.

9. Whole reading of First Information Report conveys that the main allegation is against co-accused – Santosh who has allegedly abused, quarrelled and torn clothes of informant. Already Santosh was arrested and has been released on bail. The allegations against applicants who are wife and children of Santosh are in the nature that they joined the quarrel, manhandled informant and abused. No

specific abuses were stated but the allegation are in general form. Therefore, the question of applicability of the provisions of Scheduled Caste and Scheduled Tribes (Prevention of Atrocities) Act requires consideration. There are no allegation that applicants have used any article or wepon in the incident so as to recover the same. In the circumstances, the applicants have made out a case for grant of pre-arrest protection.

10. In view of above, impugned order dated 30.06.2020 is quahed and set aside. Interim protection granted by this Court vide order dated 24.07.2020 and extended vide order dated 08.09.2020 is hereby made absolute on the same terms and conditions.

11. Appeal stands allowed and disposed accordingly.

12. This order be communicated to the counsel appearing for the parties, either on the email address or on WhatsApp or by such other mode, as is permissible in law.

JUDGE