

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

CRIMINAL APPEAL NO. 275 OF 2020

Sumedh s/o Ajay Dolke,
Age about 20 years, Occ.: Student,
R/o Mangurda, Tah : Kelapur,
Distt. Yavatmal.

.... **APPELLANT**

// VERSUS //

1. State of Maharashtra,
Through Police Station Officer,
Police Station Pandharkawada,
Tah : Kelapur, District – Yavatmal.

2. Sau. Leelabai w/o Tulsiram Tekam,
Age about 35 years, Occ.: Fishing,
R/o Muchi Posa Gavraee,
Tah : Kelaur, Distt. Yavatmal.

.... **RESPONDENTS**

Shri U.P. Dable,, Advocate for appellant.
Shri S.D. Sirpurkar, A.P.P. for respondent no.1-State.

CORAM : VINAY JOSHI, J.
DATED : 03/12/2020.

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 protection by the Sessions Court vide its' order dated 07.08.2020. The offence punishable under Sections 3(1)(R), 3(1)(S), 3(1)(W)(i), 3(1)(W)(ii) and 3(2)(va) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 (hereinafter referred as 'the SC and ST Act') have been registered against the appellant vide Crime No. 502 of 2020 with Pandharkawada Police Station, District Yavatmal. Feeling apprehension of arrest, the appellant approached to the Sessions Court for grant of protection, however, it was denied.

3] Learned Counsel for the appellant made few submissions while claiming protection. Precisely, it is his contention that, the contents of the F.I.R. no where discloses that the offence was committed in public view, and therefore, the provisions of the SC and ST Act would not attract. The second submission is that, there is considerable delay of 9 days in lodgment of F.I.R., therefore, there is every possibility of evolving concocted story. The last submission is that, the appellant and his kin were assaulted at the time of incident for which they have filed report prior in point of time, and thus, as a counter blast existing false complaint has been lodged.

4] To support the said submissions, he took me through the contents of the F.I.R. and copy of counter F.I.R. lodged by the appellant's

father on the very day prior in point of time.

5] The State resisted bail vide affidavit-in-reply contending that, the appellant has abused the informant in the name of caste and committed the offence of serious nature.

6] Having regard to the arguments canvassed by the appellant the aspect as to whether the offence was committed in public view requires consideration. Undeniably, there is delay of nine days in lodgment of F.I.R. which raises suspicion. Already this Court has granted interim protection to the appellant vide order dated 14.08.2020. There is no complaint about misuse of liberty. Having regard to these facts, appeal deserves to be allowed and therefore, following order is passed :

- (a) The Criminal Appeal stands allowed.
- (b) The impugned order dated 07.08.2020 passed by the Additional Sessions Judge, Kelapur, Distt. Yavatmal in Criminal Bail Application No. 111 of 2020 is hereby quashed and set aside.
- (c) The interim protection granted to the appellant by this Court vide its' order dated 14.08.2020 is hereby made absolute on same terms and conditions with modification of waiving the condition of attendance.

7] The Criminal Appeal stands allowed and disposed of accordingly.

JUDGE

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