

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

CRIMINAL APPEAL NO.299/2020

Anmol @ Pappu Gajanan Jambhe,
Aged 25 years, Occ. labour,
R/o Mahakal Chowk, Khamgaon,
Tq. Khamgaon, Distt. Buldana

.....APPELLANT

...V E R S U S...

1) State of Maharashtra,
through Police Station Officer, Khamgaon
Shivaji Nagar, Police Station,
Khamgaon, Tq. Khamgaon, Distt. Buldana

2) Satyabhama W/o Gajanan Sonone,
aged 39 years, Occ- Nil
R/o Mahakal Chowk, Shivaji Nagar,
Khamgaon, Distt. Buldana.

...RESPONDENTS

Shri S.A. Mohta, Advocate for appellant.
Shri N.H. Joshi, A.P.P. for respondent No.1/State.
Respondent No.2 Served.

CORAM:- VINAY JOSHI, J.
DATED :- 19/10/2020

JUDGMENT (PER VINAY JOSHI, J.)

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

2. Heard learned counsel for the appellant and learned A.P.P. for respondent No.1. Respondent No.2 though served has chosen

not to appear.

Admit. Heard finally with consent of both sides.

3. The Sessions Court has refused to grant pre-arrest protection to appellant in connection with Crime No. 234/2020, registered with Shivaji Nagar Police Station, Khamgaon for the offence punishable under Sections 323, 294, 504, 506 of the Indian Penal Code and Section 3(1)(r)(s) of the Scheduled Casts and Scheduled Tribe (Prevention of Atrocities) Act. Being aggrieved by the said order, the appellant has filed this appeal in terms of Section 14(A) of the Scheduled Casts and Scheduled Tribes (Prevention of Atrocities) Act.

4. While claiming pre-arrest protection, it has been submitted that the main accused were already released on bail by Sessions Court. It is pointed out that there was no necessity to have custodial interrogation and for said reason only, the main accused were released on bail on the date of their surrender itself. Further it is argued that the allegations against the appellant are of general nature and therefore, the prima facie case has not been made out under the provision of Scheduled Casts and Scheduled tribe act would not apply.

5. As against this, learned A.P.P. resisted this appeal vide reply

affidavit. He would urge that the applicant is claiming pre-arrest protection whilst the other accused were already arrested and released on bail. According to him the incident took place in public place as well as there are four witnesses who stated about the incident.

6. This Court vide order dated 24/07/2020 has granted interim protection to the applicant with rider to attend the Police Station on particular three days. The contents of First Information Report discloses that initial quarrel was picked up by one Purushottam and his son Dipak. Bail order of those accused discloses that Sessions Court opined that there was no necessity to have custodial interrogation and accordingly on the date of arrest itself, they were released on bail. As per First Information report, after sometime the applicant along with Tulshiram arrived on the spot. It is alleged that co-accused Purushottam, Pundlik and applicant, all of them have abused the informant in the name of caste. The entire tenor of allegation discloses that there was no specific contention about abuses given by the applicant in the name of caste to the informant. Therefore, the question of applicability of the provisions of the Scheduled Casts and Scheduled Tribes (Prevention of Atrocities) Act requires consideration. Already applicants have attended police station for which there appears to be no grievance. Having regard to nature

of accusation, there is no need of custodial interrogation. Having regard to these circumstances, applicants have made out a case for pre-arrest protection.

7. In view of above, appeal stands allowed. Impugned order dated 01/07/2020 is quashed and set aside. The interim protection granted to the applicants on 24/07/2020, is hereby made absolute with further direction that applicant shall attend concerned police station on 21/10/2020 and 28/10/2020 to facilitate investigation. Appeal is disposed of accordingly.

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

JUDGE

R.S. Sahare