

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

CRIMINAL APPEAL NO. 302/2020

Nagesh Moroti Bhone and another

-VERSUS-

State of Maharashtra, through P.S.O. Risod and another.

Office notes, Office Memoranda of
Coram, appearances, Court's orders
or directions and Registrar's orders.

Court's or Judge's Orders

Shri S.K. Undal, Advocate for the Appellant.
Shri H.R. Dhumale, A.P.P. for the Respondent.

CORAM : VINAY JOSHI, J.
DATE : SEPTEMBER 08, 2020.

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

2. Both appellants are seeking pre-arrest protection in
connection with Crime No. 537/2020 registered at Risod Police
Station, District Washim for the offence punishable under Sections
143, 147, 148, 149, 324, 452 of the Indian Penal Code and Section
3 (1) (r) and 3 (1) (s) of the Scheduled Caste and Scheduled Tribes
(Prevention of Atrocities) Act.

3. It is alleged that on the date of occurrence appellants
and some others had entered into the house of informant where

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they abused her in the name of Caste. At that time two other co-accused assaulted informant's husband by means of sticks and iron rod causing blood injuries. Thereafter, again all of them came out of the house where there was scuffle. It reveals that the allegation of assault is against other co-accused who are already released on bail. Thus, the report discloses that appellants allegedly entered into the house of informant and gave abuses in the name of Caste.

4. The learned counsel for appellants submitted that as per the contents of First Information Report, incident took place within the house and therefore, it not being in public view, the provisions of Scheduled Caste and Scheduled Tribe Act would not apply. Likewise, he would submit that the Caste remark as mentioned in the First Information Report also does not attract the provisions of Scheduled Caste and Scheduled Tribe Act.

5. The State resisted bail by filing reply/affidavit. The bail is resisted initially on the ground that there is sufficient material and appellants, if released, on bail they would tamper the prosecution evidence.

6. It is evident that allegation against appellants is only about giving threat and abuse in the name of caste, since the incident allegedly took place in the house, there is serious questions of applicability and provisions of Scheduled Caste and

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Scheduled Tribe Act. To remove the apprehension in the mind of prosecution witnesses, appellants can be put on terms. It is not the case where custodial interrogation is needed. Already interim protection has been accorded to appellants vide order dated 24.07.2020.

7. Having regard to all these facts, appellants have made out a case for grant of pre-arrest protection. In view of that appeal is allowed. Impugned order dated 17/07/2020 is hereby quashed and set aside. Ad-interim order dated 24/07/2020 is hereby made absolute with condition that appellants shall attend concerned Police Station on every Monday and Thursday between 10.00 a.m. to 12.00 noon till filing of charge-sheet.

8. Appeal stands disposed of accordingly.

9. 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