

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

**CRIMINAL APPEAL NO. 317 OF 2020**

Kishor Ramesh Rajput,  
Age about 35 years, Occ.: Service,  
R/o Sai Nagar, Malkapur,  
Distt. Buldhana

.... **APPELLANT**

**// VERSUS //**

1. State of Maharashtra,  
Through Police Station Officer,  
Police Station Malkapur City  
Buldhana.

2. Nalu Deepak Thate  
R/o Sai Nagar,  
Malkapur, Distt. Buldhana.

.... **RESPONDENTS**

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Shri Mir Nagman Ali, Advocate for appellant.  
Shri S.D. Sirpurkar, A.P.P. for respondent no.1-State.

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**CORAM : VINAY JOSHI, J.**  
**DATED : 08/12/2020.**

**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] The appellant is challenging the order of rejection of pre-arrest bail dated 13.08.2020 passed by the Special Judge, Malkapur. The appellant is apprehending to be arrested in Crime No. 454 of 2020 relating to the offence punishable under Sections 452, 354, 354(A), 323, 504, 506 of the Indian Penal Code and Section 3(1)(f),(s),(w)(i), 3(2)(va) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989(for short 'the SC and ST Act'). The appellant would submit that out of rivalry, he has been falsely implicated by the informant. Moreover, it is submitted that the alleged offence was committed within the house and therefore, provisions of the SC and ST Act would not apply. The State resisted the appeal vide affidavit-in-reply.

3] This Court by considering *prima facie* material has granted interim protection vide order dated 18.08.2020. It is the appellants' stand that, he is serving as Constable with Malkapur Rural Police Station. The Police of same Police Station have arrested the informant's husband in Crime No. 5 of 2020. According to the appellant, out of grudge about registration of said crime, he has been falsely implicated. The appellant has produced the copy of F.I.R. dated 22.01.2020 to show that the informant's husband was accused in said crime. Therefore, there appears to be substance in the contention raised by the appellant. Moreover, though the incident occurred on 8.00 am, till evening report was not lodged. The applicability of provisions of the SC and ST Act requires consideration.

4] The affidavit-in-reply does not disclose any reason for withdrawal of interim protection nor there are allegations of misuse of liberty. In view of that, the appellant has made out a case for grant of pre-arrest protection and therefore, following order is passed :

- (a) The Criminal Appeal stands allowed.
- (b) The impugned order dated 13.08.2020 passed by the Special Judge, Malkapur in Anticipatory Bail Application No. 173 of 2020 is hereby quashed and set aside.
- (c) The interim protection granted to the appellant by this Court vide its' order dated 18.08.2020 is hereby made absolute on same terms and conditions with modification of observing condition of attendance till filing of charge-sheet.

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

**JUDGE**

*Trupti*