

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

CRIMINAL APPEAL NO.586 OF 2020

**BAJIRAO S/O. SHANKAR DARADE
VERSUS
THE STATE OF MAHARASHTRA AND ANR**

...
Advocate for Appellant : Mr. V.D. Salunke h/f. Mr. Salunke Mayur V.
APP for Respondent/State: Mr. S.W. Mundhe
Advocate for Respondent No.2 : Mr. S.G. Joshi and S.C. Yeramwar
...

CORAM : MANGESH S. PATIL, J.

DATE : 03.03.2021

PER COURT :

Heard.

2. Admit. With the consent of both the sides, the matter is heard finally.

3. In this Appeal under Section 14-A of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 (hereinafter referred to as 'the Atrocities Act') the applicant is seeking bail in the event of his arrest in connection with Crime No.688/2020 registered with Akole Police Station, Tq. Akole District Ahmadnagar for the offence punishable under Section 323, 504 and 506 of the Indian Penal Code and Section 3 (1) (r), 3 (1)(s) and Section 3 (2) of the Atrocities Act.

4. The FIR has been lodged by the respondent No.2 alleging that on 11.10.2020 when he along with his friend Sagar Vishnu Tadpade went to the house of the applicant and his wife to inquire about the development work that was supposed to be undertaken by the Zilla Parishad, the

applicants suspected that these two persons were video graphing something. Annoyed by their such conduct he abused them in filthy language and also abused them on caste line. He snatched away his mobile phone. Simultaneously, the applicant is also stated to have compelled the informant to confess to the mistake committed by him in coming to his house under influence of liquor. Lastly, he alleges that after deleting the data from his mobile, the applicant returned it to him on the next date.

5. After having heard both the sides, it transpires from the papers of the investigation that a statement of the person who happens to be the friend of the informant namely Sagar Vishnu Tadpade has been recorded under Section 161 of the Code of Criminal Procedure. Though he has to some extent supported the version of the informant respondent about having accompanied him to the house of the applicant, as has been submitted by the learned advocate for the appellant, he has stated about the incident having taken place inside the four walls of the bungalow of the applicant. If that is so there would be a serious doubt as to if the incident can be said to have taken place in a public view within the meaning of Section 3 (1)(r) and 3 (1)(s) of the Atrocities Act.

6. Similarly, this witness Sagar Vishnu Tadpade has not stated about any abuses having been hurled by the applicant much less on caste lines.

7. Even going by the FIR, except calling the name of his caste the applicant does not apparently seem to have intended to insult, intimidate or annoy the informant much less in a public view.

8. If such is the state of affairs, when *prima facie* the offence under the Atrocities Act cannot be made out from the papers of the investigation, following the principles laid down in the case of **Prathvi Raj Chauhan Vs. Union of India and others; WP(C)No.1015 of 2018 delivered on 10.02.2020**,

the bar under Sections 18 and 18 (a) of the Act would not come into play.

9. The learned Special Judge does not seem to have paid attention to all the aforementioned facts and circumstances and has for perceiving that the offence was committed seems to have illegally rejected the Application for anticipatory bail.

10. The Appeal is allowed. The impugned order is quashed and set aside. The ad-interim relief granted earlier stands confirmed with the same terms and conditions.

(MANGESH S. PATIL, J.)

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