

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

CRIMINAL APPEAL NO.608 OF 2020

Ramchandra @ Chandrakant Bansidhar Shinde
Age: 51 years, Occ: Agri.
Antharwan Pimpri, Tq. & Dist. Beed.

... APPELLANT
(org. accused)

VERSUS

1. The State of Maharashtra
through Pimpalner, Police Station (PI)
Tq. & Dist. Beed.
2. Baliram S/o. Sopan Waghmare
Age : 61 years, Occu: Labourer
R/o Purgrast Colony,
Peth Beed, Tq. & Dist. Beed.

... RESPONDENTS
(Resp No.2 org. complainant)

...
Advocate for Appellants : Mr. N.L. Jadhav
APP for Respondents: Mrs. R.P. Gaur
...

CORAM : MANGESH S. PATIL, J.

DATE : 27.07.2021

PER COURT :

This is an Appeal under Section 14 (A)(2) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 (hereinafter referred as Atrocities Act), being aggrieved and dissatisfied by the order passed by the learned Special Judge rejecting appellant's application under Section 438 of the Code of Criminal Procedure for anticipatory bail in connection with Crime No.304/2020 registered with

Pimpalner Police Station, District Beed for the offences punishable under Section 323, 324, 504, 342 of the Indian Penal Code and under Sections 3(1)(r), 3(1)(s) and 3(2)(va) of the Atrocities Act.

2. The informant respondent No.2 alleges that he belongs to a scheduled caste. He was working as an agricultural labour for sugarcane cutting. The appellant had been engaging him for last about 10 years for cutting sugarcane. An amount of Rs.40,000/- was due from the respondent No.2 to the appellant but the former was unable to pay because of his poverty. It is alleged that the appellant along with his son abducted the informant and confined him by tying him to the cot with a chain. He was offered country liquor. It is thereafter that the appellant is alleged to have said to him that he would treat the persons from 'Mahar' and 'Mang' community during day time but would finish them by the night and none could implicate him. When the informant tried to reprimand him he was assaulted. It is alleged that in the midnight somehow he could get himself untied and fled from the spot and went home. In the next morning he went to the police station from where he was referred for medical examination. He was treated as a patient from 20.10.2020 to 22.10.2020 and lodged the report on 23.10.2020.

3. The learned advocate Mr. Jadhav for the appellant would submit that accepting the allegations in the FIR at their face value, the offence under the Atrocities Act cannot be made out. The utterances were not in public view so as to attract the provisions of Section 3 (1)(r) and 3(1)

(s). So far as the provision of Section 3(2)(va) is concerned, accepting the allegations at their face value, the informant was not assaulted only because he belongs to a scheduled caste or scheduled tribe, which is utmost necessary to invoke that provision. This is what has been interpreted by the Supreme Court in the Case of **Hitesh Verma V/s. State of Uttarakhand and Anr.; 2020 AIR(SC) 5584**. Therefore merely because the appellant is alleged to have assaulted the informant that would not attract the provision of Section 3(2) (va).

4. The learned advocate would submit that the bar under Section 18 and 18-A of the Atrocities Act is not attracted if *prima facie* ingredients for the offences under the Atrocities Act cannot be made out. He would refer to the decision in the case of **Prathviraj Chauhan Vs. Union of India and Anr.; (2020) 4 SCC 727**.

5. The learned APP submits that the offence is serious. There was a strong motive. The informant was abducted to compel him to clear the dues. He was assaulted by hurling abuses on caste lines which *prima facie* shows the intention of the informant to carry out the assault and his attitude towards the scheduled caste. Though Section 3 (1)(r) and 3 (1)(s) of the Atrocities Act requires insult and hurling of abuses to take place in public view, there is no such requirement as far as Section 3 (2)(va) is concerned. She would therefore submit that the Special Court has rightly refused the discretionary relief of anticipatory bail which even otherwise would not be available once Section 18 and 18-A of the Atrocities Act get attracted.

6. I have carefully gone through the papers of the investigation and considered the rival submissions. As can be appreciated the allegations in the FIR are to the effect *inter alia* about the appellant and the co-accused having abducted the informant and confined him in a room. Obviously, the allegations are short of attributing anything to have happened in public view which is an important ingredient for constituting an offence punishable under Section 3 (1)(s) and 3 (1)(r).

7. However, it is further alleged that by hurling abuses on caste lines the applicant is stated to have threatened and then assaulted the informant which at this juncture is sufficient to disclose the intention on the part of the appellant to treat the informant in the manner in which he has also because he belongs to a scheduled caste community. At this juncture this much of material *prima facie* is sufficient to draw an inference that in all probability the appellant could dare to abduct, confine and assault the informant not only because of the money that the latter was due to pay to him but also because he belonged to that specific scheduled caste.

8. Once we come to this inference, the provisions and the bar contained in Section 18 and 18-A would attract and if that be so no fault can be found with the impugned order passed by the Special Judge refusing to grant anticipatory bail.

9. The Appeal is dismissed.

(MANGESH S. PATIL, J.)