

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

940 CRIMINAL APPEAL NO.636 OF 2020

1]SHANKAR @ SHIVSHANKAR S/O SURESH GHODAKE
2]OM @ UMAKANT S/O SURESH GHODAKE
VERSUS
THE STATE OF MAHARASHTRA AND ANOTHER

...

Advocate for Appellants : More P. P.
APP for Respondents: V.S.Badakh
Advocate for respondent no.2 : Shital E. Waghmare

AND

...

941 CRIMINAL APPEAL NO.678 OF 2020

PADMAKAR @ RAJU S/O. SURESH GHODKE
VERSUS
THE STATE OF MAHARASHTRA AND ANR

...

Advocate for Appellant : More P. P.
APP for Respondents: V.S.Badakh
Advocate for Respondent no.2: Shital E. Waghmare

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**CORAM : MANGESH S. PATIL
DATE : 13/01/2021**

PER COURT :

These are the appeals under Section 14-A of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 by the accused from Crime No.183/2020 registered with Killari Police Station, Tq. Ausa, Dist.Latur for the offences punishable under Sections 306, 143, 323, 504, 506 of the I.P.C. and Sections 3(1)(r), 3(1)(s) and 3(2)(va) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 seeking bail/anticipatory bail, by challenging the orders passed by the

learned Special Judge refusing bail/anticipatory bail.

2] As can be discerned the allegations are to the effect that the deceased belongs to Scheduled Caste. He was having an affair with a girl from the family of the appellants for over 4 years. Though he had migrated to Pune, he was frequenting to the native. It is alleged that the appellants were objecting to such relation. It is then alleged that on 11/11/2020 appellants threatened him of consequences unless he severed the relations and stopped the affair. It is alleged that they also hurled abuses at him on caste-lines. It is then alleged that the deceased was under mental stress on account of such episode and committed suicide by hanging himself the next day.

3] The learned advocate for the appellants would submit that the appellants are being falsely involved in the crime. There are no circumstances which would indicate about they having ever intended that the deceased should commit suicide. The necessary ingredients for constituting abetment are missing. Except attributing couple of words on caste-lines, there are no other allegations which would constitute some offence under the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989. The major portion of the investigation must have been completed by now. The appellants are not criminals. There are no criminal antecedents. They are ready to cooperate the Investigating Officer. Their custodial interrogation is not necessary. Nothing is to be recovered from or discovered by them. The trial was not likely to get over in the near future and in these circumstances the Special Court ought to have granted bail/anticipatory bail.

4] The learned A.P.P. supports both the orders.

5] The learned advocate for the respondent no.2 who happens to be the original informant opposes the appeals by referring to her affidavit. She submits that there are specific allegations about the appellants having threatened the deceased on the previous day and while doing so, had hurled abuses on caste-lines in a public place. By subjecting the deceased to such threats, they have instigated him to commit suicide. The matter needs to be investigated. There is no illegality committed by the Special Judge in refusing bail/anticipatory bail and the appeals be dismissed.

6] I have carefully gone through the papers. Even accepting the allegations in the F.I.R. at their face value, it is eloquent that a girl from the family of the appellants was apparently having an affair with the deceased. Pertinently the affair was going on for almost 4 years. It is also alleged that he had migrated to Pune but used to frequently come back to the native. It is on the previous day that the appellants are alleged to have threatened him of consequences if the affair continued. In the affidavit of the respondent no.2 she has stated that deceased was under stress on account of such episode. Except use of two words on caste-lines, there are no other allegations about the appellants having indulged in some offence punishable under the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989.

7] Considering all these aspects, when some of the appellants were already in the custody extending sufficient opportunity to the Investigating Officer to complete the investigation, coupled with the nature of the allegations, custodial interrogation of the appellants does not seem to be imperative. Nothing is to be discovered by or recovered from them.

8] In these circumstances, the appeals deserve to be allowed. The learned Judge ought to have considered all these aspects and could have

easily exercised the discretion in granting bail/anticipatory bail.

9] The appeals are allowed. The appellants from Crime No.636/2020 be released on bail on their executing personal recognizance for an amount of Rs.15,000/- (Rs.Fifteen thousand only) each and furnishing a solvent surety in the like amount each subject to the condition that they shall not tamper the evidence or influence the witnesses. Bail before the trial Court.

10] Criminal Appeal No.678/2020 is allowed. The ad-interim relief granted by order dated 24/12/2020 stands confirmed on the same terms and conditions.

(MANGESH S. PATIL, J.)

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