

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

914 CRIMINAL APPEAL NO.509 OF 2021

Shobha Patil @ Shobha Milind Baisane @ Balsane

VERSUS

1. The State of Maharashtra,
2. Nagsen Jalam Bagul.

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Advocate for Appellant : Mr.Wagh Mukulanand R.
APP for Respondent No.1-State : Mr. S.P.Sonpawale
Advocate for Respondent No. 2 (Original Complainant) : Mr.N.V.Borse
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CORAM : N.R. BORKAR , J.

DATE : 16th DECEMBER, 2021.

P. C. :

1. This appeal takes an exception to the order dated 08.09.2021 passed by the Special Judge, Dhule in Criminal Bail Application No. 733 of 2021. The appellant, who is an accused in Crime NO. 150 of 2021 registered at Dhule City Police Station, District Dhule for the offences punishable under Sections 394, 324, 504, 506 of Indian Penal Code (for short "I.P.C.") and under Section 3 (1) (r) and 3 (1) (s) of the Scheduled Caste and Scheduled Tribes (Prevention of Atrocities Act) 1989 had filed an application for anticipatory bail. The said application came to be rejected by the order impugned.

2. I have heard the learned counsel for the appellant, the learned A.P.P. for Respondent No.1-State and the learned counsel for the respondent No.2.

3. The learned counsel for the appellant submits that all the allegations are against the husband of the appellant, who is co-accused in the matter, except the abuses on caste which are attributed to the present appellant. It is submitted that the husband of the appellant belongs to scheduled caste and thus it is unlikely that she would abuse the complainant on his caste. It is submitted that nothing is to be recovered from the present appellant & therefore there is no need of custodial interrogation. It is submitted that thus the order impugned may be set aside and the appellant may be released on anticipatory bail.

4. On the other hand, the learned A.P.P. for the Respondent -State submits that the appellant is involved in serious offence punishable under Section 3 (1) (r) and (s) of the Atrocities Act. It is submitted that there is bar under Section 18 of the Atrocities Act to entertain the anticipatory bail application. It is submitted that considering the nature of the offences, the learned Sessions Court was justified in rejecting the anticipatory bail application of the present appellant.

5. Learned counsel for the respondent No. 2 submits that the report came to be lodged due to some misunderstanding.

6. I have perused the F.I.R. The entire allegations are against the co-accused in the crime. The fact that the husband of the appellant belongs to scheduled caste is not disputed. Prima facie therefore it is unlikely that, the appellant would abuse the complainant on his caste. Considering these facts and circumstances, the order impugned is set aside. The following order is passed :

ORDER

- a. Appeal is allowed.
- b. The order impugned is set aside.
- c. In the event of arrest of appellant, in Crime No. 150 of 2021 registered at Dhule City Police Station, District Dhule for the offences punishable under Sections 394, 324, 504, 506 of Indian Penal Code and under Section 3 (1) (r) and 3 (1) (s) of the Scheduled Caste and Scheduled Tribes (Prevention of Atrocities Act) 1989.
- d. The appellant Shobha Patil @ Shobha Milind Baisane @ Balsane shall be released on anticipatory bail on furnishing P.B. in the sum of Rs. 25,000/- (Rupees Twenty Five Thousand) with one surety in the like amount.

(N.R. BORKAR)
JUDGE