

IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
BENCH AT AURANGABAD

943 CRIMINAL APPEAL NO.557 OF 2021  
BHARAT TUKARAM BOBADE  
VERSUS  
THE STATE OF MAHARASHTRA AND ANOTHER

Ms.B.B. Gunjal, Advocate for the appellant.  
Mr.R.B. Bagul, APP for the respondent/State.  
Ms.Sarita Gaikwad, Advocate (appointed) for respondent No.2.

CORAM : N.R.BORKAR, J.  
DATED : 17.12.2021

PC :-

01. This appeal takes exception to the order dated 13.10.2021 passed by the learned Additional Sessions Judge, Beed, in Criminal Bail Application No.825 of 2021.

02. The respondent No.2, who is accused in Crime No.208 of 2021, registered at Neknoor Police Station, for the offences punishable under section 323, 504, 506 of the Indian Penal Code and sections 3(1)(r) and 3(1)(s) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, had filed application for anticipatory bail. Said application came to be allowed by the order impugned.

03. I have heard the learned Counsel for the appellant, learned APP for the respondent/State and learned Counsel for respondent No.2.

04. The learned Counsel for the appellant submits that the learned Additional Sessions Judge erred in observing that bar under section 18 & 18-A of the Atrocities Act is not attracted. It is further submitted that respondent No.2 is involved in multiple criminal cases and the learned Additional Sessions Judge has not considered the said fact, while allowing the application for anticipatory bail. It is submitted that on the contrary the submission was made before the Sessions Court that the respondent No.2 is not involved in other criminal case. It is submitted that order impugned, thus needs to be quashed and set aside.

05. The learned APP has tendered the report submitted by the Assistant Superintendent of Police,

wherein it is mentioned that respondent No.2 is involved in four criminal cases. It appears that submission was made before the learned Additional Sessions Judge that respondent No.2 is not involved in any other criminal case, which is factually incorrect. In view of this the order impugned cannot be sustained. In the result, the following order is passed :-

**O R D E R**

- i) The appeal is partly allowed.
- ii) The order impugned is set aside.
- iii) The learned Additional Sessions Judge shall decide the Criminal Application No.825 of 2021 afresh in accordance with law.
- iv) The High Court Legal Services Sub-Committee, Aurangabad, shall pay the fees to appointed counsel for respondent No.2, in accordance with rules.

**[N.R.BORKAR, J. ]**