

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

921 CRIMINAL APPEAL NO.574 OF 2021

**JANARDHAN SRIHARI MUNDE
VERSUS
THE STATE OF MAHARASHTRA AND ANOTHER**

Mr.J. M. Murkute, Advocate for the appellant
Mr. A. R. Gaikwad, Advocate for the respondent NO.2
(appointed)
Mrs. G.L. Deshpande, APP for the respondent/State

CORAM : N. R. BORKAR, J.

DATE : 21-12-2021

P. C.

. This appeal takes an exception to the order dated 23-10-2021 passed by the learned Additional Sessions Judge, Gangakhed below Exh.1 in Criminal Misc. Application (Bail) No. 227 of 2021.

2. The appellant who is an accused in Crime No. 407 of 2021 registered at Gangakhed Police Station, Tq. Gangakhed, Dist. Parbhani for the offences punishable under Sections 324, 504 and 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 an

application for anticipatory bail. The said application came to be rejected by the order impugned.

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

4. The learned counsel for the appellant submits that even if the allegations made in FIR are accepted as it is, still they would not constitute the offence punishable under Sections 3(1)(r) and (s) of the Atrocities Act. It is submitted that the learned trial court was thus not justified in rejecting the application of the present appellant for anticipatory bail.

5. On the other hand the learned APP submits that there are specific allegations in relation to abuses on caste. It is submitted that there is bar to entertain the application for anticipatory bail under Section 18 of the Atrocities Act and therefore, the trial court was justified in rejecting the application.

6. The learned counsel for the respondent No.2 adopted the submission of learned APP for the respondent/State.

7. I have perused the first information report.

8. It appears that the first incident took place with the son of the respondent No.2-complainant as he was grazing buffalo in the field of the present appellant and according to the respondent No.2/complainant, present appellant assaulted his son by rope. It appears that the said incident was not premeditated nor the son of the respondent No.2/complainant had received any serious injury in the incident. It appears that after the alleged assault, son of the respondent No.2 had made phone call to him pursuant to which the respondent NO.2 reached there and he questioned the appellant in relation to alleged assault on his son. It appears that at that time the appellant said to the respondent No.2 that he assaulted his son as he behaved rudely with him. According to the respondent No.2/complainant the present appellant abused him on his caste. It appears that the appellant has uttered

only one word on caste. It is not the case of the respondent No.2 that at the time of alleged incident other villagers were present at the place of incident and with a view to humiliate him in public view the said word on caste was uttered. Considering these facts the order impugned cannot be sustained. In the result, following order is passed.

ORDER

i. The appeal is allowed.

ii. The impugned order is set aside.

iii. In the event of arrest of of the appellant in connection with the Crime No. 407 of 2021 registered at Gangakhed Police Station, Tq. Gangakhed, Dist. Parbhani for the offences punishable under Sections 324, 504 and 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, he shall be released on furnishing PR bond of Rs. 25,000/- [Rupees Twenty Five Thousand] with one surety in the like amount.

iv. The appellant shall attend the Gangakhed Police Station, Tq. Gangakhed, Dist. Parbhani every week i.e. on Monday between 11.00 am to 01.00 pm till filing of the charge-sheet and shall co-operate in the investigation.

v. Fees shall be paid to the learned counsel appointed for respondent No.2, by the High Court Legal Services Sub-Committee, Aurangabad in accordance with the rules.

[N. R. BORKAR, J.]