

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

38 CRIMINAL APPEAL NO.604 OF 2021

**NITIN MACHINDRA KALE
VERSUS
THE STATE OF MAHARASHTRA AND ANOTHER**

...
Advocate for Appellant : Mr.Sonkawade Amarsinha D.
APP for Respondent No. 1-State : Mrs. G.L.Deshpande
Advocate for Respondent No. 2 : Mr.Prakash Bhaushaeb Shirsath
...

CORAM : N.R. BORKAR , J.

DATE : 20th DECEMBER, 2021.

P. C. :

1. This appeal takes an exception to the order dated 19.11.2021 passed by the Additional Sessions Judge, Shrigonda, District Ahmednagar, in Criminal (Bail) M.A. No. 682 of 2021.

2. The appellant who is an accused in Crime No. 754 of 2021 registered at Shrigonda Police Station, District Ahmednagar for the offences punishable under Sections 323, 504, 506 read with Section 34 of the 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.

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

4. Learned counsel for the appellant submits that it is just the case of road rage, which is converted in to the case under the Atrocities Act. It is submitted that nothing is to be recovered from the appellant and thus, custodial interrogation of the appellant is not necessary. It is submitted that the trial Court has lost sight of these facts and erred in rejecting anticipatory bail application of the appellant.

5. On the other hand, the learned A.P.P. for respondent-State submits that there are eye witnesses to the incident. It is submitted that the present appellant has not only assaulted the respondent No. 2 but even abused him on his caste. It is submitted that there is bar to entertain anticipatory bail application under Section 18 of the Atrocities Act and thus, the trial Court was justified in rejecting the anticipatory bail application of the appellant.

6. Learned counsel for the respondent No. 2 adopted the submission of the learned A.P.P. for respondent-State.

7. I have perused the F.I.R., Prima-facie the incident does not appear to be premeditated. According to the respondent No. 2 appellant abused him on his caste only after asking his name.

Prima-facie the case appears to be purely of road rage.

8. Considering the above facts, impugned order cannot be sustained. Hence following order is passed :

ORDER

- a. Appeal is allowed.
- b. The order impugned is set aside. In the event of arrest of the appellant in crime in question he be released on bail on executing P.R. bond in the sum of Rs. 25,000/- (Rs. Twenty Five Thousand) with one surety in the like amount.
- c. The appellant shall attend the concerned police station every week i.e. on every Monday in between 11.00 a.m. to 2.00 p.m. till filing of the charge-sheet and shall co-operate in the investigation and thereafter once in month i.e. on first Monday of the month in between 11.00 a.m. to 1.00 p.m. till the conclusion of the trial.

**(N.R. BORKAR)
JUDGE**

mahajansb/