

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**CRIMINAL APPELLATE JURISDICTION****CRIMINAL APPEAL NO. 284 OF 2021**

Vikas Hiralal Fund	]	... Appellant
V/s.		
1. The State of Maharashtra	]	
2. Anita Nana Pawar	]	... Respondents

Mr.Viresh V. Purwant for Appellant.
Mr.A.R. Patil, A.P.P. for Respondent No.1-State.
Mr.Tejas Hilage for Respondent No.2.

CORAM : A.S. GADKARI, J.

DATE : 3rd May 2021.

(Through Video Conferencing)

PC. :

This is an appeal under Section 14A of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 (Amendment Act 2015) (for short, "S.C. & S.T. Act") for bail under Section 439 of the Code of Criminal Procedure in C.R. No. 0173 of 2021 dated 16th February 2021 registered with Mohol Police Station, District Solapur (Rural) under Sections 324, 504, 506 of the Indian Penal Code and Sections 3(1)(r), 3(1)(s), 3(2) (va) of the S.C. & S.T. Act.

2. Heard Mr.Purwant, learned counsel for the Appellant, Mr.Patil, learned A.PP for Respondent No.1-State and Mr.Hilage, learned counsel for Respondent No.2-Original Complainant.

At the outset Mr.Hilage, learned counsel for Respondent No.2 submitted that, he has not yet received the physical copy of Vakalatnama, as the Postal and Courier services have been affected due to the present ongoing COVID-19 pandemic. However he submitted that, he will file Vakalatnama of Respondent No.2 within a period of four weeks from today in the Registry of this Court.

3. First Information Report is lodged by Respondent No.2 on 16th February 2021.

It is alleged that, in the Gram Panchayat Election, which was conducted in the month of January, the Respondent No.2 and her family members cast their votes against the Appellant and his party. That feeling enraged because of the same, on 15th February 2021 at about 7.00 pm, the Appellant under the influence of alcohol came at the residence of Respondent No.2 and questioned her as to why she did not vote in favour of the party of the Appellant and threatened and abused her in filthy language. When Respondent No.2 questioned about the said conduct of the Appellant, it is alleged that, he assaulted her on her left thigh with a stick. After the husband of Respondent No.2 namely Shri Nana Pawar came home, Respondent No.2

informed him the said incident. The husband of Respondent No.2 therefore questioned the Appellant as to why he had been to his house and assaulted his wife i.e. Respondent No.2. At that time, it is alleged that, the Appellant also abused him in filthy language and assaulted him. When the Respondent No.2 tried to pacify the said scuffle, the blouse of Respondent No.2 was torn. In the brief premise, present crime is registered.

4. Mr.Patil, learned A.P.P. on instructions submitted that, the investigation of the present crime is completed and police have submitted chargesheet on 30th April 2021 before the Court of competent jurisdiction. He submitted that, while submitting chargesheet Section 354-B of the I.P.C. has been added to the present crime.

5. Mr.Purwant, learned counsel for the Appellant submitted that, Section 324 of the I.P.C. is a bailable offence and as the Appellant has alleged to have committed the said principal offence, Section 3(2)(va) of the S.C.& S.T. Act which is a defining section, is applied to the present crime. Mr.Purwant, on instructions, further submitted that, there are no antecedents at the discredit of the Appellant.

6. A bare perusal of First Information Report would indicate that, the Appellant did not abuse Respondent No.2 on her caste. The alleged incident did not take place within public view and at a public place. The alleged incident of assault and abusing the Respondent No.2 in filthy language

occurred in her house. In view thereof, prima-facie it appears that, no offence as contemplated under Section 3(1)(r) and 3(1)(s) of the S.C. & S.T. Act is made out in the present case. Respondent No.2 being a member of a scheduled caste and as the offence under Section 324 and 506 of the I.P.C. is prima-facie made out, the provisions of Section 3(2)(va) of the S.C. & S.T. Act are applied to the present crime.

The record further prima-facie indicates that, the Appellant did not had intention to disrobe Respondent No.2 and her blouse got torned in the said scuffle which took place between the Appellant and the husband of the Respondent No.2. That when the Respondent No.2 tried to pacify the said scuffle, it was torned.

The Appellant is in jail since 21st February 2021. The investigation of the present crime is already completed.

7. Mr.Hilage, learned counsel for the Respondent No.2 submitted that, the Respondent No.2 hails from the lower economical strata of the society. The Appellant is a politically influential person and if released on bail, may threaten the Respondent No.2 or may take revenge for lodging the present crime. The apprehension of the learned counsel for the Respondent No.2 can be taken care of by imposing stringent conditions upon the Appellant.

8. In view thereof, the Appellant can be released on bail.

Hence, the following Order :-

- (i) Applicant be released on bail in C.R. No. 0173 of 2021 dated 16th February 2021 registered with Mohol Police Station, District Solapur (Rural) under Sections 324, 504, 506 of the Indian Penal Code and Sections 3(1)(r), 3(1)(s), 3(2)(va) of the S.C. & S.T. Act on his furnishing P.R. bond of Rs.15,000/- with one or two local sureties in the like amount.
- (ii) Applicant is permitted to furnish cash bail of Rs.15,000/- for a period of 16 weeks from today and during the said period, he shall comply with the procedure of furnishing sureties.
- (iii) After his release from jail, Applicant shall not enter in the jurisdiction of Mohol Taluka Police Station, Solapur (Rural) for a period of six months from today, except for reporting his presence with the said Police Station, as directed herein below.
- (iv) After his release from jail, the Appellant shall attend Mohol Taluka Police Station, Solapur (Rural) on every first and third Monday of the month between 10:00 am to 12:00 noon and mark his presency.
- (v) Appellant is directed to withdraw himself from Mohol Taluka immediately after marking his presency.
- (vi) Before his actual release from jail, the Appellant shall furnish his proposed residential address along with his mobile number to Mohol Taluka Police Station and

simultaneously before the Trial Court.

(vii) Appellant shall not tamper with the evidence and/or influence prosecution witnesses.

9. Appeal is allowed in the aforesaid terms.

10. All the concerned to act on the basis of the authenticated copy of this Order.

[A.S. GADKARI, J.]