

Tandale

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO. 49 OF 2021

Raju Panga Rahe

.... Appellant.

Vs.

The State of Maharashtra & Anr.

.... Respondents.

Ms. Dhanashree Lad a/w Mr. Abdul Aziz Khan for the Appellant.

Mr. A. R. Patil, APP for the Respondent No.1-State.

Mr. Rajendra Chandankar, Assistant Police Inspector is present.

CORAM : A. S. GADKARI, J.

DATE : 17th FEBRUARY, 2021.

P.C.:-

This is an Appeal under Section 14A of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 (Amendment Act 2015) (for short, "SCST Act") for pre-arrest bail under Section 438 of the Code of Criminal Procedure, 1973 in C.R. No. I-35 of 2020 dated 15th January 2020 registered with Kashimira Police Station, Thane under Sections 447, 448, 506 read with 34 of the Indian Penal Code and Sections 3(1)(g)(r) and 3(2)(va) of SCST Act.

2. Heard Ms. Lad, learned counsel for the appellant and Mr. Patil, learned A.P.P. for respondent-State. Perused record of investigation.

3. Learned counsel for the appellant submitted that, the appellant is also a member of Scheduled Tribes, namely, 'Varli'. She submitted that,

caste certificate of the appellant has been validated by the Competent Authority of Government of Maharashtra and the certificate of validity dated 12th June 2013 has been issued by it. She submitted that, therefore, provisions of SCST Act are not applicable to the appellant.

4. Learned A.P.P., on instructions from the Police Officer present in the Court submitted that, the appellant has produced a certificate of validity dated 12th June 2013 mentioning that, he belongs to the Scheduled Tribe (ST), namely, 'Varli'.

5. In view thereof, it can not be said that, the applicant has committed an act as contemplated under Sections 3(1)(g)(r) and 3(2)(va) of SCST Act. Rest of the offences alleged against the appellant are bailable offence. Perusal of Order passed by the Trial Court reveals that, the said vital aspect of the matter has not been considered by it while rejecting the Application of the appellant by its impugned Order dated 21st August 2020.

6. In view of the above, appellant is entitled to be protected by pre-arrest bail.

Hence the following Order :

- i) In the event of arrest of appellant in C.R. No. I-35 of 2020 dated 15th January 2020 registered with Kashimira Police Station, Thane, he be released on bail on his furnishing P. R. Bond of Rs.10,000/- with one or two local sureties in the like amount.

- ii) Appellant shall not tamper the evidence and/ or influence the prosecution witnesses.
- lii) Appeal is allowed in the aforesaid terms.

(A.S. GADKARI, J.)