

***IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION***

CRIMINAL APPEAL NO.411 OF 2021

Kayyum Dawood Khan

...Appellant

Vs

The State of Maharashtra & Ors.

... Respondents

...

Mr. B.B.Tiwari i/by Mr. Azimuddin N. Kazi for the Appellant.

Smt.S.V.Sonawane, APP for the Respondent-State.

Ms. Komal G. Sinha, appointed advocate for R.No.2.

CORAM : SANDEEP K. SHINDE J.

DATE : DECEMBER 14, 2021.

P.C. :

It is an appeal under Section 14A(1) of the
Scheduled Castes and Scheduled Tribes (Prevention of Atrocities)
Act, 1989 ('Act of 1989' for short).

2 Heard learned counsel for the appellant, the learned
prosecutor for the State and Ms. Komal Sinha, advocate
(appointed) on behalf of the complainant.

3 The learned counsel appearing for the complainant would rely on the judgment of the Apex Court in the case of **Manju Devi v. Onkarjit Singh Ahluwalia alias Omkarjeet Singh and Ors. (2017) 13 SCC 439** to contend that in view of Section 18 and 18A of the Act of 1989, any person against whom accusation of having committed an offence has been made, provisions of Section 438 of the Code shall not apply. Thus, she would question maintainability of appeal for pre-arrest bail.

4 Primary evaluation of the First Information Report shows that, if the offence under the Act of 1989 is not made out, bar under section 18 and 18A(2) shall not apply. I have perused the First Information Report. Admittedly, there is a dispute about redevelopment of the building between the complainant and the appellant. Since the matter regarding redevelopment of the property was subject matter of civil dispute, any dispute arising on account of that, would not disclose offence under the Act of 1989, unless the victim is abused, intimidated, only for the reason that he belongs to Scheduled Caste or Scheduled Tribe.

5 In consideration of the facts of the case, in my view, no offence under the Act of 1989 has been disclosed in the First Information Report. In that view of the matter, appeal is allowed. Hence, the following order;

ORDER

(I) In the event of arrest of the appellant in Crime No. 62 of 2021 registered with Mumbra Police Station, he shall be released on executing PR bond for the sum of Rs.25,000/- with one or more sureties in like sum.

(ii) Appellant shall join the investigation as and when required and shall co-operate in the investigation.

6 The appeal is accordingly allowed and disposed of.

7 It is made clear that observations made hereinabove be construed as expression of opinion only for the purpose of bail and the same shall not in any way influence the trial in other proceedings.

(SANDEEP K. SHINDE, J.)