

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

CRIMINAL APPEAL NO. 494 OF 2021

Shivraj @ Nandu Siddharam @ Sidram ... Appellant

Vs

The State of Maharashtra & Anr. ... Respondents

...

Mr. Priyal G. Sarda, for the Appellant.

Mr. Y. M. Nakhawa, APP for Respondent-State.

Mr. Santosh Gaikwad, SDPO, Akkalkot, Solapur (Rural),
present.

...

CORAM : SANDEEP K. SHINDE J.

DATE : 07th OCTOBER, 2021.

P.C. :

. Heard learned Counsel for the appellant, Prosecutor for the State. None appears for respondent No.2 (complainant), although he has been served.

2. This is an appeal under Section 14-A(2) of the Scheduled Caste and Scheduled Tribes (Prevention of Atrocities) Act, 1989 ("The Act of 1989" for short). The appellant seeks pre-arrest bail in connection with the C.R.

No.175 of 2021 registered with Valsang Police Station, District Solapur for the offences punishable under Section 354, 327, 324, 323, 504 and 506 of the Indian Penal Code (for short 'IPC') and Sections 3(1)(r)(s)(w)(ii), 3(2)(va) of the said Act, 1989 and Sections 7(1)(5) and 10 of the protection of Civil Rights Act. This Court vide order dated 16th June 2021 granted interim pre-arrest protection to the appellant on certain terms and conditions, whereby, the appellant was also directed to report to the investigating officer and to join the process of investigation.

3. Background facts

Yogiraj, co-accused (brother of applicant) filed First Information Report (for short 'FIR') on 28th April 2021 at 4.22 p.m. against 'Vhotkar', family relating to incident of assault occurred on 27th April 2021. Whereupon, crime under Sections 307, 327, 143, 147, 148, 149, 504 and 506 was registered against, six family members of, Vhotkar. The primary evaluation of the report suggests, subsisting

dispute between Vhotkar family and family of appellants over the agricultural land. It is only after a report was lodged by Yuvraj, one of the family members of, 'Vhotkar' filed First Information Report against the appellant and his family members on 28th April 2021 at 10.00 p.m. In the report she would alleged that appellant and co-accused abused her over and in relation to her caste, while attempting to outrage her modesty. After which the crime in question came to be registered against the appellant. The primary evaluation of two first information reports suggest subsisting dispute between two families over the agricultural land was the cause. In the case of **Hitesh Verma v/s. State of Uttrakhand & Anr. (2020) 10 Supreme Court Cases 710** the Apex Court has held that, offence under the Act is not established only because the informant is a member of Scheduled Caste unless there is an intention to humiliate a member of Scheduled Caste or Scheduled Tribes for the reasons that the victim belongs to such castes. In the case of the **Khuman Singh V/s. State**

of M.P. (2020) 18 SCC 763 the Apex Court has held that, “there was nothing to suggest that the offence was committed by the appellant only because the deceased belonged to Scheduled Caste. In the case in hand, first information reports in no uncertain terms suggests that two families were fighting over a agricultural land. Additionally the fact cannot be overlooked that although the alleged incident had taken place on 27th April 2021, report was lodged by the complainant on 28th April 2021 at 10.00 p.m. and only after appellant’s brother lodged the first information report against the family members of the complainant. In consideration of the facts of the case, in my view, prima facie, offence under the Act 1989 has not been made out. For these reasons, the appellant is granted pre-arrest protection. Thus the following order.

ORDER

(a) In the event of arrest of the appellant in C.R. No.175 of 2021 registered with Valsang Police Station, District Solapur, is directed to

be released on executing P.R. bond in the sum of Rs.25,000/- with one or more sureties in the like sum.

(b) The appellant shall report to the investigating officer twice a month i.e. 1st and 2nd Monday of each month between 11.00 to 01.00 p.m. for the period of six months or till the charge is framed, whichever is earlier.

(c) The Applicant shall not tamper with the evidence or attempt to influence or contact the complainant, witnesses or any person concerned with the case.

(d) The Applicant shall furnish his permanent residential address and contact number to the Investigating Officer forthwith within a week of his release from jail.

4. The appeal is accordingly allowed and disposed of.

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

(SANDEEP K. SHINDE, J.)

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