

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.

CRIMINAL APPEAL NO. 52 OF 2020.

Shobelal s/o Muktilal Mohare,
Aged about 63 years,
Occupation – Agriculturist,
resident of Pangaon, Tahsil
Salekasa, District Gondia.

... **APPELLANT.**

VERSUS

1.The State of Maharashtra,
through Police Station Officer,
PS. Salekasa, Tahsil Salekasa,
District Gondia.

2.Manjubai Manoj Raut,
Aged 35 years, Occupation Sarpanch,
resident of Pangaon, Tahsil Salekasa,
District Bhandara.

... **RESPONDENTS.**

Shri D.V. Mahajan, Advocate for the Appellant.
Shri S.D. Sirpurkar, A.P.P. for Respondent No.1.
Shri S.U. Bhoyar, Advocate (Appointed) for Respondent No.2.

CORAM : VINAY JOSHI, J.

DATE : JANUARY 04, 2021

ORAL JUDGMENT :

Heard.

Admit. By consent of learned Counsel appearing for the respective parties, the appeal is taken up for final hearing.

2. The appellant/accused is challenging the order of rejection of pre arrest bail passed by the Sessions Court in M.C.B.A. No. 324/2019. An offence has been registered against the appellant vide Crime No. 304/2019 for the offence punishable under Sections 323, 504, 506 read with 34 of the Indian Penal Code and Sections 3[1][r], 3[1][v] of the Scheduled Caste and Scheduled Tribe (Prevention of Atrocities) Act, 1989.

3. The learned Counsel for the appellant submits that in pursuance of the order passed by this Court in Writ Petition No.4158/2018, Gram Sabha was conveyed. According to him, no such incident had occurred since nothing was reflected in the resolution passed by the Gram Sabha on that date. He has tendered photo copy of the resolution for perusal. The same is taken on record.

4. On the other hand, learned Counsel for respondents would submit that the allegations are serious and due to bar under Section 18 of the Atrocities Act, the appellant is not entitled for pre arrest bail.

5. With the assistance of learned counsel for the parties, first information report has been perused. The informant Sarpanch has alleged that at the time of Gram Sabha in all 4 accused have abused her by referring name of her case and also manhandled her. The allegations appears to be general in nature. It reveals that by virtue of orders dated 16.09.2019 of this Court, Gram Sabha was conveyed. There is possibility that the respondent may have grudge since the appellant after removal had approached to this Court. The bar under Section 18 of the Atrocities Act would not apply if prima facie case has not been made out.

6. This Court has exercised jurisdiction and granted pre arrest protection way back in the month of February, 2020 which is prevailing till date. There is no complaint that the appellant has misused the liberty, hence no purpose would be served in reverting the position by curtailing the liberty once granted. In view of this, the Appeal is allowed. The impugned order dated 31.12.2019

passed by the District Judge-1 and Sessions Judge, Gondia in Misc. Criminal Application No. 324/2019 is hereby quashed and set aside. The interim order passed by this Court on 03.02.2020, is hereby made absolute on same terms and conditions.

JUDGE

Rgd.