

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

CRIMINAL APPEAL NO. 65 OF 2020

1. Chandrakala wd/o Raju Nandane
Aged about 55 years, Occ. Agriculturist,
R/o Bishnur, q. Ashti, Distt. Wardha.
2. Jayashri w/o Yogesh Pachare
aged about 26 years, Occ. Household,
R/o Chicholi, Tq. Kalamb, Distt. Yavatmal.

.... **APPELLANTS**

// VERSUS //

1. State of Maharashtra, through Police
Station Officer, Talegaon (Shamjipant),
Tq. Ashti, Distt. Wardha.
2. Aachal d/o Sunil Gadge
(Aachal w/o Amol Nandane)
Aged 21 years, Occ. Household,
R/o Bishnur, Tq. Ashti,
Distt. Wardha.

.... **RESPONDENTS**

Shri M.V. Rai, Advocate for appellants.
Ms. H.N. Jaipurkar, A.P.P. for respondent no. 1-State.
Respondent no. 2 is served.

CORAM : VINAY JOSHI, J.
DATED : 08/01/2021.

JUDGMENT :

Heard.

2. **ADMIT.** By consent of the learned Counsel appearing for the parties, Appeal is taken up for final disposal.

3. The appellants have challenged the order of rejection of pre-arrest bail by invoking the provisions of appeal under Section 14-A of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 (for short “the SC and ST Act”). Appellant no. 1 is the mother-in-law whilst appellant no. 2 is sister-in-law of the informant-lady. The son of appellant no. 1 namely Amol (co-accuse) got married with the informant-lady one year proceeding to the occurrence. The informant alleged that after one year from her marriage she begotten a son and thereafter, she was subjected to matrimonial harassment. She stated that on 28.10.2019, appellant no. 1 has abused her in the name of caste. Thereafter, co-accused Amol gave her pill to cause abortion and finally on one day, with the assistance of both appellants some other pills were forcibly administered to cause abortion. When the appellant returned to her maternal house, after 15 days she lodged the report about the occurrence.

4. It reveals that the main allegations are against the co-accused Amol who was already arrested. The State has resisted the

bail vide affidavit-in-reply. The alleged utterance does not clearly convey whether it amounts to intentional abuse in the name of caste. The domestic dispute has reached to Police Station when the informant went to her maternal house. This Court has granted interim protection to both the appellants near-about prior to one year, which is prevailing till date. The State in it's reply has stated that already investigation is complete and charge-sheet has been filed. No fruitful purpose would be served by arresting the appellant. The question about the applicability of the provisions of the SC and ST Act requires consideration. Both the appellants are female and already enjoyed interim protection. No complaint is made that they had mis-used the liberty.

5. In the circumstances, the appellants have made out a case for grant of pre-arrest protection. Therefore following order is passed :

- (a) The Criminal Appeal stands allowed.
- (b) The impugned order dated 28.11.2019 is hereby quashed and set aside.
- (c) Interim order dated 07.02.2020 is hereby made absolute on same terms and conditions.

6. The Criminal Appeal stands disposed of accordingly.

JUDGE