

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

CRIMINAL APPEAL NO. 192/2020

Ashok Rajatam Gote,
Aged about 50 years, Occ. Agriculturist,
R/o. Adoli, Tah. & Dist. Washim,

.... APPELLANT

// VERSUS //

1. State of Maharashtra,
through Police Station Officer,
Police Station, Washim Rural,
Washim.
2. Chandrakala Samsadhan Sawant,
R/o. Adoli, Tah. & Dist. Washim.

.... RESPONDENTS

Shri M. N. Ali, Advocate for appellant.
Ms. H. N. Jaipurkar, Addl. Public Prosecutor for respondent No. 1.

CORAM : VINAY JOSHI, J.

DATED : 09.01.2021

JUDGMENT

Heard.

2. **Admit.**

3. The appellant is challenging the order of rejection of pre-arrest bail in MCA No. 46/2020. The learned counsel for the appellant would submit that there was land dispute going on in Civil Court. The parties are in rival terms hence to deter the appellant false case has been filed. The informant and her family were habituated in filing false complaints under the provisions of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 (short 'SC and ST Act'). In support of said contention, he has produced the copy of judgment passed in atrocities case No. 19/2012 and copy of First Information Report dated 29.01.2019 lodged by the son of the informant.

4. The State resisted the appeal by filing reply-affidavit. The State has contended that First Information Report discloses abuses in the name of caste which makes out the offence under the provisions of SC and ST Act. I have gone through the First Information report. It is alleged that at the instance of land dispute, there was quarrel in which the appellant allegedly abused informant in the name of caste. In order to constitute the offence under the SC and ST Act, there must be adequate mens-rea and the occurrence must be within public view. Those aspects require serious consideration. Already, interim

protection has been granted to the appellant vide order dated 23.04.2020 which is prevailing till date. It is not alleged that the appellant has either misused liberty or pressurized the prosecution witnesses. In the situation, having regard to the nature of allegations, the appellant has made out a case for grant of pre-arrest protection.

5. In view of above, appeal stands allowed. Impugned order dated 28.02.2020 is hereby quashed and set aside. The interim order dated 23.04.2020 is hereby made absolute on the same terms and conditions with rider to follow the conditions of attendance till filing of charge-sheet. The appellant shall not commit similar type of crime, failing which the State can move for cancellation of pre-arrest protection.

6. Appeal stands disposed in above terms.

JUDGE

Gohane.