

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

CRIMINAL APPEAL NO.165 OF 2021

Ravindra S/o Narharipanth Kotambkar and one

...**Versus**...

State of Maharashtra through P.S.O., Ramnagar Police Station,
District : Wardha.

*Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
order
and Registrar's orders.*

Court's or Judge's

Shri. S. G. Joshi, Advocate for Appellants
Shri. S. M. Ukey, APP for Respondent no.1/State
Shri. A. Jaltare, Advocate for Respondent No.2.

CORAM : **N. B. SURYAWANSHI, J.**

DATE : **8th JUNE, 2021.**

Hearing was conducted through Video Conferencing and the learned counsel agreed that the audio and visual quality was proper.

2. After arguing for sometime, when this Court was not inclined to grant relief in favour of the appellant no.1, the learned Advocate for the appellants upon instructions sought permission to not press the appeal of appellant no.1.

3. Permission is granted. The appeal of appellant no.1 is disposed of as not pressed.

4. This is an appeal filed under Section 14-A of the Scheduled Castes and Scheduled

Tribes (Prevention of Atrocities) Act, 1989 by the second appellant, challenging the judgment and order passed by the learned Additional Sessions Judge, Wardha in Misc. Criminal Application No.111 of 2021, thereby rejecting the application filed by the appellant under Section 438 of the Code of Criminal Procedure.

5. The second appellant is accused no.2 in Crime No.94 of 2021 registered at the behest of the second respondent with Ramnagar Police Station, District Wardha for the offences punishable under Sections 500, 501, 504 and 506 of the Indian Penal Code and Sections 3(1)(q), 3(1)(r), 3(1)(u) and 3(1)(za)(E) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989.

6. In the F.I.R., it is the contention of the second respondent that the appellant no.1 being the Chief Editor of Daily "Sahasik" News Paper was knowing that he belongs to scheduled Caste, defamed him by publishing news items, which contained abusive language and also contained allegations of corruption against him.

7. Heard the learned Advocate for the appellant, the learned Addl. Public Prosecutor for respondent no.1/State and the learned Advocate for respondent no.2.

8. I have gone through the appeal and annexures thereto as well as written notes of argument alongwith documents filed by the second respondent.

9. Perusal of the F.I.R. shows that the main allegations are against the first appellant, no specific role is attributed to the second appellant. Vague and general allegations are made against him, which do not make out ingredients of the offence under the SC/ST (Prevention of Atrocities) Act.

10. The learned trial Judge failed to appreciate the aspect that *prima facie* no case is made out against the second appellant for commission of offences under the SC/ST (Prevention of Atrocities) Act. The learned trial Judge, therefore, was not justified in denying the anticipatory bail to the second appellant. Hence, the following order :

i) The appeal filed by the second appellant is allowed.

ii) The impugned judgment and order passed by the learned Additional Sessions Judge, Wardha in Misc. Criminal Application No.111 of 2021, is hereby quashed and set aside.

iii) In the event of arrest of the appellant no.2 Virendra @ Rana S/o Baburao Rannaware in

connection with Crime No.94 of 2021 registered with Ramnagar Police Station, District Wardha for the offences punishable under Sections 500, 501, 504 and 506 of the Indian Penal Code and Sections 3(1)(q), 3(1)(r), 3(1)(u) and 3(1)(za)(E), the appellant no.2 shall be released on bail on executing P.R. and S.B. Bond in the sum of Rs.15,000/- with one solvent surety in the like amount.

iv) The appellant no.2 shall attend the concerned Police Station as when called by the investigating officer.

v) The appellant shall not tamper with the prosecution evidence.

vi) The appeal is disposed of.

(N. B. SURYAWANSHI, J.)