

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

CRIMINAL APPEAL NO. 394 OF 2020

Gajanan Tulsiram Jambhe
Aged about 56 years, Occ. Labourer,
R/o Mahakal Chowk, Khamgaon,
Tq. Khamgaon, Dist. Buldhana.

.... APPELLANT

// VERSUS //

1. State of Maharashtra, through Police
Station Officer, Police Station, Shivaji Nagar,
Tq. Khamgaon, Distt. Buldhana.

2. Bharti Vijay Patole,
Aged 40 years,
R/o Mahakal Chowk, Khamgaon,
Tq. Khamgaon, Distt. Buldhana.

.... RESPONDENTS

Shri S.V. Shirpurkar, Advocate for Appellant.
Ms. T. Udeshi, A.P.P. for respondent no. 1.
Shri S.S. More, Advocate for respondent no. 2.

CORAM : SMT. ANUJA PRABHUDESSAI, J.
DATED : 04/02/2021.

JUDGMENT :

Heard learned Counsel for the appellant and learned A.P.P.
for the State.

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

3. This is an appeal filed under Section 14-A(1) of the Scheduled Caste and Scheduled Tribes (Prevention of Atrocities) Act, 1989 (for short “the SC and ST Act”). The Appellant was arrested on 27.08.2020 in Crime No. 360 of 2020 for the offences punishable under Section 354(d), 504 read with 34 of the Indian Penal Code. The said crime was registered pursuant to the First Information Report dated 02.08.2020 lodged by the Respondent no. 2. It was alleged that the Appellant had prepared a video clip insinuating that the first informant, who is a member of scheduled caste, was having an illicit relationship with one driver. It is alleged that the said video clip was made viral.

4. The Bail application filed by the Appellant was rejected by the Special Court mainly on the ground that the Appellant had defamed and harmed the reputation of the first informant. Being aggrieved by this order, the appellant has filed present appeal.

5. The records indicate that the Appellant herein was granted interim bail on 06.10.2020. While granting interim bail, this Court had observed that the punishment for the offences allegedly committed by

the Appellant was 5 years. The Court had also taken note of the fact that the Appellant was interrogated and was in custody for a period of one month. In the circumstances, the Appellant was granted interim bail with direction to attend the concerned Police Station on every Monday. The presence of the Appellant is no longer required for the purpose of investigation or interrogation. There is nothing on record to indicate that, the Appellant has violated the terms and conditions of the interim bail or that he has interfered with the witnesses during the period, he was on interim bail. Learned A.P.P states that the sons of the Appellant are not yet arrested and that they had not cooperated with the investigation. Suffice it to say that the Appellant can not be detained in custody on the ground that, his sons have not co-operated with the investigating agency.

6. Considering the above facts and circumstances, the Appellant in my considered view, is entitled for regular bail. Hence the following order :

(a) The Criminal Appeal is allowed.

(b) The Appellant is ordered to be released on bail on furnishing P.R. bond of Rs.15,000/- with one surety in the like amount.

- (c) The Appellant shall appear before the Investigating Officer as and when required.
 - (d) The Appellant shall report to the investigating Officer on first Monday of every month, till filing of the charge-sheet.
 - (e) The Appellant shall not interfered with the witnesses in any manner.
6. The Criminal Appeal stands disposed of accordingly.

JUDGE

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