

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

CRIMINAL APPEAL NO. 18 OF 2022

Shivaji Pralhad Aatole

..APPELLANT

VERSUS

State of Maharashtra and Another

..RESPONDENTS

....

Mr. S.J. Salunke, Advocate for appellant

Mr. R.B. Bagul, A.P.P. for respondent no.1 – State

Mr. V.B. Garud, Advocate for respondent no.2

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CORAM : R.G. AVACHAT, J.

DATED : 14th FEBRUARY, 2022

PER COURT :

1. This is an appeal under Section 14-A of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 ('the Act'). The challenge herein is to order dated 01st January, 2022 refusing to grant the appellant anticipatory bail in connection with Crime No.736 of 2021 registered with Ambad Police Station, Dist. Jalna for the offences punishable under Sections 323, 504 and 506 of the Indian Penal Code, under Sections 3(1)(r) and 3(1)(s) of the Act and under Section 92 of the Right of Person with Disabilities Act, 2016.

2. Heard. Perused the First Information Report ('F.I.R.') and related papers.

3. The F.I.R. has been lodged on 27th December, 2021. It has been alleged therein that the informant is a Press Reporter. He is the District President of Republican Sena, Section for Disables (अपंग विभाग), Jalna. The appellant herein has retired on superannuation from the post of Junior Engineer from the office of Sub-Divisional Water Conservation Office, Zilla Parishad, Jalna. On 12th August, 2021, the informant had made some complaint against the appellant to his higher-ups. The Chief Executive Officer, Zilla Parishad, Jalna had, therefore, scheduled enquiry in that regard on 15th December, 2021. It was about 02.00 p.m. The informant was on his way to the office for enquiry. The appellant allegedly intercepted him and questioned as to why did he make complaint against him to his higher-ups. The appellant allegedly manhandled him and abused over his caste as well. He also gave threats of making him disable in another leg, since the informant has already a disable leg.

4. Learned counsel for Respondent No.2 - informant would submit that in fact, there is no delay in lodging of the F.I.R. He brought to the notice of this Court a communication dated 15th December, 2021 itself, which was received by the office of Police Superintendent, Jalna same day on which the alleged incident took place. The allegations in F.I.R. dated 27th December, 2021 correspond with the allegations made in the said complaint. In this way it can very well be said that the informant had lodged the report of alleged

incident within hours thereof. Learned counsel would further submit that since the allegations in the F.I.R. prima facie make out the offence under the Act, there is bar of Section 18 of the Act to grant pre-arrest bail.

5. No doubt, there can be no two views over what has been submitted by learned counsel in this regard. On appreciation of facts of the case, it however appears that the informant is misusing his position. He is a Press Reporter. He is also the District President of Republican Sena, Section for Disables (अपंग विभाग), Jalna. In all the communications with the government officials he used his letter head. The appellant has retired on superannuation from the post of Junior Engineer from the office of Sub-Divisional Water Conservation Office, Zilla Parishad, Jalna. There are number of communications made by the informant to the higher officials of the appellant. In all such communications, he had asked for service record of the appellant. He also asked the higher-ups not to release pension and other retiral benefits of the appellant. When the appellant has been granted leave encashment, the informant has threatened the higher-ups that they will have to face consequences therefor.

6. It is not known as to why the informant had been after the appellant. Way back on 30th January, 2021, the appellant had made a communication with the officer of Ambad Police Station informing that the

informant has been making unlawful demand of money (extortion). He is also threatening to implicate him in offences under the Act.

7. From the record it does appear that the informant has been after other government officials as well. On 26th November, 2021 the informant had applied under his letter head to the Sub-Divisional Officer, Zilla Parishad (Public Works Department) asking for all the details about the official work performed by Mr. S.A. Pathan, Assistant Engineer. It is not known as to why did he ask for such information and what right he has got to ask for such information. On the same day i.e. 26th November, 2021 he has made similar communication with the Deputy Engineer, Village Water Supply Department, Ambad asking for similar details of Mr. V.B. Palkar, Sectional Engineer. On 20th September, 2021 the informant has made complaint to the Block Development Officer, Panchayat Samiti, Ambad against one Mr. S.B. Ghodke, Senior Assistant.

8. From the material placed on record it does appear that the informant has been misusing his position. He has been after the government officials. The reason therefor is not known. Learned counsel for Respondent No.2 – informant did not shed light on this aspect. It appears that the informant has been asking such information under the Right to Information. It is the case of the appellant that the informant has been making unlawful demand of money. There is substance in the contentions made by learned

counsel for the appellant. As such, it does appear that the allegations in the F.I.R. might not be true. This makes out a case for grant of pre-arrest bail to the appellant herein.

9. In the result, the appeal succeeds. Hence the following order :-

ORDER

- (i) Criminal appeal is allowed.
- (ii) Impugned order dated 01st January, 2022 is hereby set aside.
- (iii) In the event of arrest of the appellant in connection with Crime No.736 of 2021 registered with Ambad Police Station, Dist. Jalna for the offences punishable under Sections 323, 504 and 506 of the Indian Penal Code, under Sections 3(1)(r) and 3(1)(s) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 and under Section 92 of the Right of Person with Disabilities Act, 2016, he be released on executing P.R. bond in the sum of Rs.15,000/- (Rupees Fifteen Thousand) with surety in the like amount.
- (iv) The appellant shall not tamper with the prosecution evidence.
- (v) The appellant shall appear before the Investigating Officer as and when required.

(R.G. AVACHAT, J.)