

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

918 CRIMINAL APPEAL NO.62 OF 2022

TABAJI KUSHABA KARANJULE
VERSUS
THE STATE OF MAHARASHTRA AND ANOTHER

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Advocate for Appellant : Mr.Nade S S & Sandanshiv M.B
APP for Respondents: Mr. R D Sanap
Advocate for Respondent 2 : Mr. Bhandari Anand P.
(Appointed)

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CORAM : SHRIKANT D. KULKARNI, J.
Dated: September 22, 2022

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PER COURT :-

1. The appellant/original accused is challenging the order of rejection of bail application in criminal (bail) M.A.no.1575 of 2021 passed by the Special Judge, Ahmednagar dated 8.10.2021 by way of this appeal.

2. Heard Mr Nade, learned counsel for the appellant, Mr. Bhandari, learned counsel for respondent no.2 and Mr. Sanap learned APP for the State.

3. Mr. Nade learned counsel for the appellant invited my attention to the copy of the FIR [page 12] exhibit A lodged by the first informant Bayadi Kale and copy of

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the FIR lodged by the appellant/first informant against Bayadi Kale vide crime no.136 of 2021. He submitted that the incident had taken place on 28.4.2021 at about 7 pm when the appellant was returning to his house from his work place. He was on the way when first informant Bayadi and her husband asked him to return hand loan amount which he had taken and on account of that there was fracas and abusement.

4. Lateron, first informant Bayadi assaulted to the appellant by means of sickle and caused grievous head injury. He rushed to the police station and subsequently went to Rural Hospital with medical yadi. He was examined by the medical officer on 28.4.2021 at 10.30 pm. There was no facility of city scan machine and, therefore, he was referred to Shirur for city scan examination. He submitted that, first informant and her husband infact assaulted to the appellant by means of sickle. The appellant never did alleged act of outraging modesty of the first informant in the said incident much less abused to her with reference to her

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caste. He invited my attention to the copy of the injury certificate of the appellant [page 56] and city scan report [page 58]. He submitted that the appellant is a 70 years old man and suffering from various diseases. The alleged incident had taken place inside house of the first informant and, as such, the provisions of the Scheduled Castes and Scheduled Tribes [Prevention of Atrocities] Act, 1988 (for short 'Atrocities Act') do not attract. He submitted that both the parties have filed counter cases against each other out of the same incident. He, therefore, urged to grant anticipatory bail to the appellant by allowing this appeal.

5. Mr. Anand Bhandari, learned counsel for respondent no.2 opposed to grant anticipatory bail to the appellant. He invited my attention to the copy of the FIR lodged by the first informant Bayadi. He submitted that the appellant had been to the house of the first informant by consuming liquor, misbehaved with the first informant and further outraged her modesty. Her husband rushed there and he intervened and in that

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incident appellant was pushed when his head came in contact with the wooden door and thereby he sustained injury.

6. It is not an injury caused by the first informant by means of sickle. He submitted there are specific allegations against the appellant. In view of the Bar under section 18 of the said Act, present appellant is not entitled to get anticipatory bail. He, therefore, urged to dismiss the appeal.

7. Mr. Sanap, learned APP for the state argued on similar lines and supported the order passed by the learned Additional Sessions Judge, Ahmednagar. However, Mr. Sanap submitted that as per his instructions, investigation of crime no.135 of 2021 registered at Supa police station has been concluded and investigation officer has filed charge-sheet before the special court on 8.4.2022 and the same is registered as Special Case no. 69 of 2022.

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8. I have considered the submissions of both sides. Perused the copy of the FIR filed by the first informant whereby crime no.135 of 2021 came to be registered against the appellant for the offences punishable under sections 354-A, 323, 504, 506 of the IPC. Subsequently, section 3(1)(r)(s), 3(1)(w)(i) of the said Act came to be added. Further, I have perused the copy of the FIR filed by the appellant against the first informant and her husband bearing crime no.136 of 2021 for the offences punishable u/s 324, 323, 504, 506, 34 of the IPC coupled with section 4/25 of the Arms Act.

9. On examination of the above two FIR's, it would reveal that out of the same and one incident two crimes have been registered by the respective sides against each other. Initially, FIR lodged by the first informant the provisions of Atrocities Act were not applied, but subsequently those provisions were applied. On careful examination of the copy of the FIR lodged by the first informant Bayadi, it would reveal that the alleged incident had taken place in front of her house at Ota

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when she was preparing meals. Even though, there is allegation in the FIR about use of abusive language against the first informant with reference to her caste, it is difficult to attract the provisions of the said Act that the appellant did such alleged Act of outraging modesty of the first informant with an intention and knowing that she belongs to the S.T. and intentionally committed such Act of giving abuses with reference to the caste. The genesis of the incident as stated in the FIR by the first informant and the connected FIR filed by the appellant appears to be dispute of return of hand loan which was taken by the appellant from the husband of the first informant.

10. Further, it is revealed during the course of the argument that now investigation of the above said crime is over and police have filed the charge-sheet in the Special Court on 8.4.2022 and the case has been registered as Special Case no.69 of 2022.

11. Having regard to the above reasons and discussion and considering the fact that prima facie provisions of
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the Atrocities Act do not attract against the appellant, it would be just and proper to grant anticipatory bail to the appellant by confirming the interim protection.

ORDER

- i. Appeal stands allowed.
- ii. The impugned order passed by the Special Judge, Ahmednagar in Criminal (Bail) M.A. no.1575 of 2021 is hereby quashed and set aside.
- iii. In the event of arrest of the appellant Tabaji s/o Kushaba Karanjule in connection with Crime No.I-135 of 2021 registered with Supa Police Station, Tq. Parner, District Ahmednagar, he shall be released on bail on his furnishing PR bond in the sum of Rs.20,000/- (Rs. Twenty Thousand) with one or two solvent sureties of the like amount on the following conditions.
 - a] He shall furnish his in detail address with his cell number before the concerned Court and concerned police station.
 - b] Inform to concerned and police station accordingly.
 - c] Appeal stands disposal off.

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- iv. Mr Anand Bhandari learned counsel is appointed to espouse the cause of respondent no.2. Advocate Mr. Bhandari graciously submitted that he would not accept the honorarium even if awarded by this court towards professional fees. As such, no such order regarding payment of professional fees is passed.

(SHRIKANT D. KULKARNI, J.)

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