

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

CRIMINAL APPEAL NO. 63 OF 2022

Shobha Milind Baisane @ Balsane @
Shobha Bhagwan patil
Age- 43 years, Occu. Housewife,
R/o. Block No.1 Prathemesh Apartment,
Mahavir Colony, Behind Maleriya Office,
Sakri Road, Tal and Dist. Dhule ... Appellant

Versus

1. The State of Maharashtra
Through P.I.
Mohadi-Nagar Police Station,
Tal & District – Dhule
2. Shobha Vijay Akhade
Age-36 yrs, Occu-Motor driving school Dhule,
R/o. Beside Kisan Pipe Factory
Tal and District Dhule ... Respondents

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Mr. M. R. Wagh, Advocate for appellant
Mrs D. S. Jape, APP for respondent No.1
Mr. A. R. Syed, Advocate for respondent No.2

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CORAM : R. G. AVACHAT, J.

DATED : 16th MARCH, 2022

ORDER :-

. This is an appeal under Section 14-A of the Scheduled
Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989
(for short, 'the Act').

2. The challenge in this appeal is to the order dated 20.01.2022, passed by the learned Additional Sessions Judge, on Exh.1 in Criminal Bail Application No.39 of 2022, refusing to grant the appellant herein bail in connection with Crime No.112 of 2021, registered at Mohadi-Nagar Police Station, Dhule, for the offence punishable under Sections 354, 504 and 506 of Indian Penal Code and Sections 3(1)(r) and 3(1)(s) of the Act.

3. The First Information Report (FIR) has been lodged on 10.12.2021 in relation to the incident dated 07.12.2021. It is alleged in the FIR that the informant runs a motor driving school at Dhule. The husband (co-accused) of the appellant also runs another motor driving school at Dhule itself. It appears that there was professional rivalry between the two. The informant was elected as office bearer of the association of the owners of motor driving schools. There was a function on 30.12.2021 at Hotel Residency Park at Dhule, to felicitate the newly appointed/elected office bearers. The informant was also to be felicitate in the said function. The appellant's husband, however, struck out the informant's name from the list of office bearers to be felicitated.

4. On 05.12.2021, it was birthday of appellant's husband – Milind. A small function was arranged at RTO office by 3.00 p.m. on 06.12.2021. The informant consciously remained absent. In the said function, the appellant's husband talked ill about the informant. Someone informed the same to the informant. She was, therefore, going to lodge the report against the appellant's husband on 07.12.2021, the appellant and her husband realised the same. Both of them therefore intercepted her way. The appellant allegedly pushed her and assaulted with fisticuffs. She also abused the informant over her caste. The appellant's husband inappropriately touched her person with a view to outrage her modesty. The FIR was thus lodged on 10.12.2021.

5. Both learned APP for respondent No.1 and learned Advocate representing respondent No.2 – informant, would submit that the appellant has abused the informant over her caste. There is therefore bar to grant pre-arrest bail.

6. Learned Advocate for the appellant would submit that the FIR has been lodged three days after the alleged incident. Considering the nature of offences, the appellant may be granted

pre-arrest bail.

7. Perused the FIR and the related papers. All is not well between the informant on one hand and the appellant and her husband, on other. The FIR has been lodged three days after the alleged incident. The co-accused Milind, the husband of the appellant has been granted bail. The appellant is alleged to have abused the informant over her caste. It has been informed that the husband of the appellant also belongs to Scheduled Caste. It was therefore submitted as to why the appellant would abuse the informant over her caste. There is also cross complaint lodged against the informant herein.

8. In short, the relationship between the two is not good. The FIR has been lodged three days after the alleged incident. The husband of the appellant belongs to Scheduled Caste community. It, therefore, does not stand to reason that the appellant would abuse the informant over her caste. In view of animosity between the two, veracity of the allegations in the FIR is seriously in doubt. The co-accused has been granted bail. The appeal therefore deserves to be allowed. Hence following order:

ORDER

- (i) The appeal is allowed.
- (ii) The order dated 20.01.2022, passed by the learned Additional Sessions Judge, on Exh.1 in Criminal Bail Application No.39 of 2022, is hereby quashed and set aside.
- (iii) In the event of arrest in connection with Crime No.112 of 2021, registered at Mohadi-Nagar Police Station, Dhule, for the offences punishable under Sections 354, 504 and 506 of Indian Penal Code and Sections 3(1)(r) and 3(1)(s) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989, the appellant be released on her executing P. R. Bond in the sum of Rs.15,000/- (Rupees Fifteen Thousand) with surety bond in the like amount.
- (iv) The appellant shall not tamper with the prosecution evidence and shall report to the concerned Police Station as and when required.

[R. G. AVACHAT, J.]