

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

CRIMINAL APPEAL NO. 254 OF 2022

1. Ramraju Bhalchandra Jadhav
Age: 41 years, Occu.: Labour,
R/o Ghatshil Road, Tuljapur,
Tq. Tuljapur, Dist. Osmanabad

2. Prakash Nagesh Puneekar
Age: 60 years, Occu.: Labour,
R/o Vetel Nagar, Tuljapur,
Tq. Tuljapur, Dist. Osmanabad

..APPELLANTS

VERSUS

1. State of Maharashtra
Through Investigation Officer,
Police Station Tuljapur,
Tq. Tuljapur, Dist. Osmanabad

2. Manisha Haridas Zombade
Age: 38 years, Occu.: Household,
R/o Ghatshil Road, Tuljapur,
Tq. Tuljapur, Dist. Osmanabad

..RESPONDENTS

....

Mr. Amay Sabnis, Advocate h/f Mr. E.S. Murge, Advocate for appellants
Mr. R.B. Bagul, A.P.P. for respondent no.1 – State
Mrs. Sangita Sambre, Advocate for respondent no.2 (appointed)

....

**CORAM : R.G. AVACHAT, J.
DATED : 18th APRIL, 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 in this appeal is to an order dated 19th March, 2022 in Bail

Application No. 107 of 2022 passed by the learned Special Judge, Osmanabad refusing to grant the appellants anticipatory bail in connection with Crime No. 54 of 2022 registered with Tuljapur Police Station, Dist. Osmanabad for the offences punishable under Sections 143, 147, 149, 323, 504, 506, 354 of the Indian Penal Code ('I.P.C.') and under Sections 3(1)(w)(i), 3(1)(w)(ii), 3(1)(r), 3(1)(s) of the Act.

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

3. The First Information Report has been lodged on 24th February, 2022 in respect of the incident that took place the previous day. It has been alleged in the F.I.R. that about at 08.00 in the morning, the informant was sweeping the front yard of her residence. Accused No.1 – Nrusinh @ Bapu Jadhav, a neighbor came out of his house under the pretext of performing *pooja* of *tulshi* plant. He stared at the informant with lust. He asked her to come to him at least for a day. He caught hold of her hand with an intention to outrage her modesty. The informant got herself rescued and went back in the house. She narrated her sister-in-law (brother's wife) what had happened with her. Both of them, therefore, came out of the house to question Accused No.1 – Nrusinh @ Bapu Jadhav as to why did he behave such a way. He, in turn, gave call to his brother - Appellant No.1. Thereupon, his brother and

their brother-in-law – Appellant No.2 came together and abused the informant over her caste. Meanwhile, other family members of Accused No.1 arrived. They beat up the informant and her sister-in-law. They also abused them over their caste. It has also been alleged in the F.I.R. that Accused No.1 – Nrusinh @ Bapu Jadhav used to appear before the informant covered with a towel. He would intentionally drop the towel to appear in underwear before the informant.

4. Learned A.P.P. and learned counsel for Respondent No.2 – complainant would submit that the allegations in F.I.R. undoubtedly make out the offence/s punishable under the Act, and therefore, there is bar under Section 18 of the Act to grant pre-arrest bail. Police papers have also been placed on record to show that the witnesses examined are supporting the allegations in the F.I.R. Learned counsel for Respondent No.2 – complainant placed on record her written statement. According to her, the informant had been to the police station the same day. The police station officer, however refused to record her F.I.R. She had, therefore, gone to the police station next day. The police station officer recorded her statement in brief.

5. The F.I.R. has been lodged one and half day after the alleged incident. The main accused (Nrusinh) was arrested and reported to have been released on bail as well. No overt act of an assault is attributed to the

appellants herein. They are alleged to have abused the informant over her caste. It appears that all was not well between the two families. Possibility of attributing the appellants with the abusive words over the informant's caste with a view to teach them a lesson by sending them behind the bars, cannot be ruled out. The statements which reinforce the allegations in the F.I.R. are that of the relations of the complainant. Those statements were recorded after 5-6 days of the alleged incident. What has been stated by learned counsel for Respondent No.2 – complainant in the written statement might be correct. There is however, nothing to indicate the informant to have thereafter immediately approached the Superintendent of Police with a grievance against the police station officer. In this factual backdrop, I am inclined to allow the appeal.

6. In view of the same, the appeal succeeds. Hence the following order :-

ORDER

- (i) Criminal appeal is allowed.
- (ii) Interim relief granted to the appellants vide order dated 28th March, 2022, is hereby confirmed.
- (iii) The appellants shall not tamper with the prosecution evidence.

(iv) The appellants shall appear before the investigating officer as and when required.

(v) Fees of Mrs. Sangita Sambre, learned counsel appointed to represent Respondent No.2 is quantified to Rs.5,000/-.

(R.G. AVACHAT, J.)

SSD