

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

CRIMINAL APPEAL NO.327 OF 2022

**SAKHUBAI W/O PIRAJI DEVKAR
VERSUS
THE STATE OF MAHARASHTRA AND ANOTHER**

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Mr. G.L. Deshpande, Advocate for the Appellant
Mr. R.D. Sanap, APP for Respondent No.1/State
Mr. Adinath B. Jagtap, Advocate (appointed) for Respondent
No.2

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CORAM : SHRIKANT D. KULKARNI, J.

DATE : 07 SEPTEMBER 2022

PER COURT:-

. A lady appellant had applied for anticipatory bail in connection with Crime No. 108 of 2022 registered at Bhokar Police Station, District Nanded for the offences punishable under Section 323 of the Indian Penal Code and under Sections 3(1)(r) and 3(1)(s) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 (hereinafter referred to as 'the Atrocities Act' for the sake of convenience). Her prayer for anticipatory bail came to be rejected by the Additional Sessions Judge, Bhokar vide order dated 31.03.2022 in criminal bail application No. 32 of 2022.

2. Feeling aggrieved by the order of rejection of the anticipatory bail, the appellant has preferred this appeal.

3. This Court vide order dated 22.04.2022 was pleased to grant interim protection. It is to be seen whether the interim protection granted by this Court is to be made absolute.

4. Heard Mr. G.L. Deshpande, learned counsel for the appellant, Mr. R.D. Sanap, learned APP for respondent No.1/State and Mr. Adinath B. Jagtap, learned counsel (appointed) for respondent No.2/

5. Mr. Deshpande, learned counsel for the appellant invited my attention to the copy of the F.I.R. (page 16) and submitted that the name of this appellant is not shown in the F.I.R. It is simply mentioned that Piraji Devkar and his wife. He further took me through the relevant part of the F.I.R. and submitted that no role is attributed to the appellant. He submitted that *prima facie* provisions Atrocities Act do not attract. He further invited my attention to the copy of the F.I.R. filed by the same first informant/respondent No.2 with the same police station. He submitted that Crime No. 274 of 2021 came to be registered against the husband of the

present appellant for the offences punishable under Section 506 of the Indian Penal Code and under Sections 3(1)(f), 3(1)(g), 3(1)(r) and 3(1)(s) of the Atrocities Act. He submitted that practically the same allegations are made in the said F.I.R. He submitted it is one more attempt by respondent No.2/first informant to implicate the appellant. He submitted that the appellant's husband has purchased 3 R land from the father of the first informant by way of registered sale deed, and he is possessing the same. After the demise of the father of the first informant, the first informant wanted to get back that land in view of the escalation of price and thereby disturbing his possession by lodging such false complaint. He, therefore, urged to confirm the interim protection granted by this court.

6. Mr. Adinath Jagtap, learned counsel (appointed) for respondent No.2 strongly opposed to grant anticipatory bail to the appellant. He submitted that in view of bar provided under Section 18 of the Atrocities Act, the appellant is not entitled to get any protection. There are specific allegations levelled against the appellant. The appellant alleged to have abused the first informant with reference to his caste. In view of the role attributed to the appellant and in view of the bar

under Section 18 of the Atrocities Act, the appeal needs to be dismissed.

7. Mr. Sanap, learned APP for respondent No.1/State also opposed to allow this appeal on similar lines.

8. As pointed earlier, this court was pleased to grant interim protection vide order dated 22.04.2022 and the same is in force till today. There is no report from the Investigating Officer showing that the appellant is not cooperating in the investigation. Secondly, there are no allegations against the appellant that she is involved in the act of tampering with the prosecution witness and evidence. As such, it must be inferred that the appellant is cooperating to the investigating agency.

9. Now coming to the factual aspect of the case. On going through copies of both the F.I.Rs. referred above, it would clear that respondent No.2/first informant seems to have registered two F.I.Rs. One F.I.R. vide Crime No. 274 of 2021 dated 03.08.2021 against the husband of the appellant attracting the provisions of Atrocities Act. Practically similar allegations are made in the second F.I.R., which is filed on 26.03.2022. It is stated in the F.I.R. that the alleged incident

had taken place on 25.03.2022 when Piraji Devkar (husband of the appellant) and his wife about 3.00 p.m. had been to the property of the first informant and insulted to the first informant with reference to his caste. Further, they alleged to have beaten to the first informant by fist blows and kicks. On careful examination of the F.I.R. (page 16) in connection with Crime No. 108 of 2022, the allegations are made omnibus. It is simply mentioned that above said persons abused to the first informant with reference to his caste. No specific role is attributed to the present appellant. It is revealed during the course of argument that the husband of the appellant in connection with another crime came to be arrested and released on bail.

10. Having regard to the above factual scenario and after careful examination of the F.I.R., *prima facie* it is difficult to attract the provisions of of the Atrocities Act. As such, there is no hurdle to grant this application for anticipatory bail.

ORDER

(i) The appeal is hereby allowed.

(ii) The impugned order passed by the learned Additional Sessions Judge, Bhokar in criminal bail application No. 32 of 2022 dated 31.03.2022, is hereby quashed and set aside.

(iii) In the event of arrest of the appellant/accused **Sakhubai W/o Piraji Devkar** in connection with crime No. 108 of 2022 registered at Bhokar Police Station, District Nanded for the offences punishable under Section 323 of the Indian Penal Code and under Sections 3(1)(r) and 3(1)(s) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989, she shall be released on bail on her furnishing P.R. bond of Rs.20,000/- (Rupees Twenty Thousand only) with one or two solvent sureties of the like amount on the following conditions:-

(a) She shall remain present as and when called by the Investigating officer and cooperate to the investigation agency.

(b) She shall not tamper with the prosecution witnesses and evidence in any manner.

(iii) Inform the concerned court and police station accordingly.

(iv) The professional fees of Mr. Adinath Jagtap, learned counsel (appointed) for respondent No.2 is quantified at Rs.5,000/-. The Secretary, High Court Legal Services Sub Committee, Aurangabad is requested to make the payment of above said professional fees to Mr. Adinath Jagtap, learned counsel (appointed).

(v) The criminal appeal is accordingly disposed of.

[SHRIKANT D. KULKARNI]
JUDGE

S.P. Rane