

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPEAL NO.376 OF 2022

SUNIL S/O SURESH HINGE
VERSUS
THE STATE OF MAHARASHTRA

.....

Advocate for Appellant : Mr. S. S. Rathi
APP for Respondent No.1-State : Mr. S. P. Deshmukh
Advocate for Respondent No.2 : Mr. R. S. Bora (Appointed)

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CORAM : SMT.VIBHA KANKANWADI, J.
DATE : 24-06-2022

ORDER :

1. Present appeal has been filed under Section 14-A of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 to challenge the rejection of anticipatory bail application filed by the present appellant (original applicant No.1) in Criminal Miscellaneous Application No.384 of 2022, by learned Special Judge under Atrocities Act, Parbhani on 05-05-2022.
2. Heard learned Advocate Mr. S. S. Rathi for Appellant, learned APP Mr. S. P. Deshmukh for respondent No.1-State, and learned appointed Advocate Mr. R. S. Bora for respondent No.2.
3. Perusal of the FIR lodged by respondent No.2 shows that

informant was the president of the procession that was taken on account of Dr.Babasaheb Ambedkar Jayanti on 22-04-2022. The procession started at about 04.00 p.m. and ended by 07.00 p.m., and thereafter, a program of songs (Bheem Geet) was organised in the field of Subhashrao Rangnath Hinge. That program was over by 10.00 p.m. and then in the same place people started taking dinner. Thereafter, dispute started between present applicant, Sunil Hinge, Rushi Hinge and Deepak Bhujbal in respect of sitting on water jar. According to the informant, accused persons had assaulted Deepak Bhujbal on his head by means of stick and fists blows. When the informant/respondent No.2 and Deepak's mother and mother-in-law went to rescue, at that time the accused persons assaulted them also with slaps and fists. The present appellant abused by saying, "तुम्ही धेडगे लोक लइ माजले आहे धेडग्यांचे बघाव लागन," which was the abuses in the name of caste. People from villages were present at that place.

4. Thus, even if it has been tired to be submitted on behalf of the applicant that it was the field belonging to Subhash Hinge and not the public place and the incident was not premeditated, yet when it has been stated that in that field a public program was organised and public had gathered for taking lunch, prima facie it appears to

be a public place, rather it can be said that a private place converted into public place for the time being, which would definitely attract the provisions of Atrocities Act prima facie. It was the present applicant to whom the role has been attributed in respect of abuses in the name of caste, and therefore, when offence under the Atrocities Act are made out, his application under Section 438 of Cr.P.C. was barred under Section 18 of the Atrocities Act. No error or illegality has been committed by the learned Special Judge in rejecting the bail application filed by the present appellant. Hence, appeal stands rejected.

5. Fees of the appointed advocate is quantified at Rs.5000/- (in words rupees five thousand only), to be paid by High Court Legal Services Sub-Committee, Aurangabad.

(SMT. VIBHA KANKANWADI)
JUDGE

vjg/-.