

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

CRIMINAL APPEAL NO. 667 OF 2022

Uddhav Vishwanathrao Kajale

.. Appellant

Versus

The State of Maharashtra and another

.. Respondents

Mr. Gaurav L. Deshpande, Advocate for the Appellant.

Mr. Y. G. Gujarathi, APP for Respondent No. 1.

Mr. Sandip A. Wakale, Advocate for Respondent No. 2.

CORAM : KISHORE C. SANT, J.

DATED : 16th NOVEMBER, 2022.

P C. :-

1. Heard learned advocate for the parties.
2. It is the submission of learned advocate for the appellant that the appellant is falsely implicated in the offence. It is the case of the accused that he was not present at the place of alleged incident, but he was at Jintur, a place around 50 km. away from the spot. The allegations are made because of almighty. Learned advocate submits that as per the interim order passed by this Court, he has complied with the conditions and he has attended the police station. He prays to continue the interim relief.
3. Learned advocate for respondent submits that the offence is

clearly made out. The submissions of learned advocate for the appellant are in nature of defence which he has to establish during course of trial.

4. Learned A.P.P submits that when prima facie offence is made out in view of Section 18 of the Scheduled Caste and Scheduled Tribe (Prevention of Atrocities) Act, 1989 (for short "Atrocities Act"), this appeal cannot be considered. The Court only has to see as to whether the offence is made out prima facie or not. Other contents of the submissions on the merits cannot be considered once the case is made out to be a case under the Atrocities Act.

5. This Court as well as the Hon'ble Supreme Court in the case of Vilas Pandurang Pawar and another Vs. State of Maharashtra and others reported in (2012) 8 SCC 795 have held from time to time that, when the allegations are made under the Atrocities Act, bar is under Section 18 clearly attracted and no application for anticipatory bail can be considered. There is specific provision of Section 438 of the Code of Criminal Procedure. The latest judgment in the case of Prathvi Raj Chauhan Vs. Union of India and others reported in (2020) 4 SCC 727, wherein it is held that once offence is made out under the Atrocities Act, power under Section 438 of the Code of Criminal Procedure cannot be invoked and no application for anticipatory bail can be

considered. In this case, looking at the FIR, there are clear allegations which if accepted as certainly shows this is an offence punishable under the Atrocities Act.

6. Considering this, appeal is dismissed. Trial be expedited.

7. Learned advocate for the appellant prays that interim relief was there granted by this Court. The same be continued for a period of three (03) weeks.

8. Learned advocate for respondent No. 2 objects the same.

9. Considering that there is interim relief since 16.09.2022, the same is continued for a period of three (03) weeks from today.

(KISHORE C. SANT, J.)

P.S.B.