

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

918 CRIMINAL APPEAL NO.711 OF 2022

NITIN DEVIDAS PAWAR
VERSUS
THE STATE OF MAHARASHTRA AND ANOTHER

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Advocate for Appellant : Mr. Murkute J.M.
APP for Respondent 1: Mr. P N Kutti
Advocate Ms. Jakhade Rutuja L. Appointed For R.no.2

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CORAM : KISHORE C. SANT, J.

Dated : December 15, 2022

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PER COURT :-

1. Heard learned advocate for the appellant.
2. The appellant is one of the accused persons against whom an offence is registered at the instance of respondent no.2 bearing FIR No.337 of 2022 dated 5.7.2022 with police Station Ahmedpur, District Latur. So far as the accused Narsing is concerned, he is arrested and, therefore, he has not filed any appeal seeking anticipatory bail. This appeal is filed only by accused Nitin Pawar. It is the submission of the learned Advocate for the appellant that, as his brother had contested the election, the informant, who is Sarpanch

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of the village, there is political rivalry between them and it is for this reason complaint is lodged. This accused is implicated only because he happens to be the brother of another accused Narsing. So far as the criminal antecedents are concerned, he submits that those are only against his brother and this applicant is not an accused in those cases. On the merits of the matter, he submits that there is no specific allegations against this appellant. The allegations are against Narsing. Though it is alleged that this appellant also has uttered the words referring to the caste, it is submitted that in fact, those were also uttered only by the another accused and he prays for anticipatory bail.

3. Heard learned APP. The learned APP produced the papers of investigation. From the statements, it is seen that the incident has, in fact occurred in the office of Grampanchayat, wherein this witness was present being employee of the Grampanchayat. Certainly, this witness is an independent person and needs to be believed. He further submits that, there are criminal antecedents

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against accused persons and, therefore, it would be unsafe to release him on bail.

4. Learned Advocate appointed for respondent no.2 submits that, specific allegations are seen in the FIR. The accused persons have abused in the name of the caste of Sarpanch of the village and, thus, looking at this position, the offence appears to be serious.

5. After hearing the submissions and after going through the statements recorded by the police during the investigation, it is seen that there is specific allegations made even against this appellant so far as he has uttered the words in the name of caste and abused the informant. Though, it is tried to make out a case that all the allegations are only against Narsing and this appellant, he is implicated only because he happened to be the brother of the main accused. This Court find that at least on one place there is allegations against this appellant attracting the offence under section 3(1)(r) and section 3(1)(s) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989.

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Thus, this Court finds that in view of the Judgment in case of **Vilas Pandurang Pawar and another Vs. State of Maharashtra and ors.** reported in **(2012) 8 SCC 795** and **Prathvi Raj Chauhan Vs. Union of India and ors.** reported in **(2020) 4 SCC 727** when the allegations are made out on the face of it, there is a bar under section 18A of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 to consider the application for anticipatory bail. Considering the above, this Court finds that no relief can be granted to the appellant and thus, the appeal is dismissed.

6. Learned Advocate Ms. Jakhade R.L. appearing for respondent no.2 is appointed through Legal Aid. She is entitled to the fees as per rules. The High Court Legal Services Sub-committee, Aurangabad to pay her legal fees and expenses as per the rules.

(KISHORE C. SANT, J.)

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