

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

CRIMINAL APPEAL NO. 634 OF 2021

Shriram Sawairam Rathod
Age: 61 years, Occu. - President of
Tuljadevi Shikshan Prasarak Mandal, Jalna
R/o. Income Tax Colony, Old Jalna, Jalna
Tal. And District – Jalna ... Appellant

Versus

1. The State of Maharashtra
Through the Police Inspector,
Kadim Jalna Police Station, Jalna
Tal and District – Jalna
2. Mandakini W/o Vitthalrao Khade
Age-42 years, Occupation – Suspended Employee,
R/o. C/o. Narendra Ramesh Thakur,
Near Nayan Agency, Income Tax Colony,
Old Jalna, Jalna, Tal and District Jalna ... Respondents

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Mr. N. S. Ghanekar, Advocate for appellant
Smt. Geeta L. Deshpande, APP for respondent o.1
Mr. R. G. Hange, Advocate for respondent No.1

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CORAM : R. G. AVACHAT, J.

DATED : 08th MARCH, 2022

ORDER :-

. This is an appeal under Section 14-A of the Scheduled
Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989
(for short, 'the Act').

2. The challenge herein is to the order dated 25.11.2021, passed by the Additional Sessions Judge, Jalna, on Exh.1 in Criminal Misc. Application (Bail) No.1172 of 2021, refusing to grant the appellant anticipatory bail in connection with Crime No.597/2021 registered with Kadim Jalna Police Station for the offences punishable under Sections 354 and 504 of the Indian Penal Code and under Sections 3(1)(w)(i)(ii), 3(1)(r)(s) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989.

3. Heard. Perused the First Information Report (FIR) and the papers relied on.

The FIR has been lodged on 20.11.2021 in relation to the incidence that took place before 25.02.2021. It has been alleged in the FIR that the appellant runs an educational institute – Tuljadevi Shikshan Prasarak Mandal, Jalna. The said institute runs Apang Niwasi Vidyalaya at Nagewadi. The informant was employed as Cook for the said residential school way back in 2006. One another woman was also employed for the very work. At the instance of the appellant, both of them would do domestic work at the house of the appellant. While doing said work, the appellant would inappropriately touched their person. It was with an intention to

outrage their modesty. The informant belonged to the Scheduled Caste. The appellant was in the know of the same. He had abused the informant over her caste. And even abused her in filthy language. Since the informant had raised objection about the appellant's such behavior, both the informant and her coworker were removed from service.

4. The learned APP would submit that the averments in the FIR undoubtedly make the offence punishable under the provisions of the S.C. and S.T. Act. He would, therefore, submit that there is bar to grant pre-arrest bail.

5. The learned Advocate for the appellant would, on the other hand, took me through certain facts to suggest that the FIR has been lodged only with a view to harass the appellant.

6. Considered the submissions advanced. Perused the FIR and the related papers. The appellant runs an educational institute. A residential school for physically disabled persons has also been run by the said institute. The informant and one another lady had been employed as Cooks way back in 2006. At that time, the school was not receiving grants-in-aid. After passage of time, it started receiving

grants-in-aid. In the year 2010, someone raised objection for continuance of the informant in service. On inquiry of the complaint, it was realised that the informant has submitted false affidavit stating therein to have only two children. She has, in fact, three children. On inquiry, she was found guilty. She was therefore removed from service. The allegations in the FIR dates back to the period before May – 2021. The FIR has been lodged about six months thereafter. In the aforesaid factual backdrop, veracity of the allegations that the appellant had abused the informant over her caste and touched her inappropriately, is seriously in doubt. In the given circumstances, the appeal deserves to be allowed. Hence following order:

ORDER

- (i) The Appeal is allowed.
- (ii) The order dated 25.11.2021, passed by the Additional Sessions Judge, Jalna, on Exh.1 in Criminal Misc. Application (Bail) No.1172 of 2021, is hereby quashed and set aside.
- (iii) In the event of arrest in connection with Crime Crime No.597/2021 registered with Kadim Jalna Police Station for the offences punishable under Sections 354

and 504 of the Indian Penal Code and under Sections 3(1)(w)(i)(ii), 3(1)(r)(s) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989, the appellants be released on his executing P. R. Bond in the sum of Rs. 15,000/- (Rupees Fifteen Thousand) with surety bond in the like amount.

- (iv) The appellants shall not tamper with the prosecution evidence and shall report to the concerned Police Station as and when required.

[R. G. AVACHAT, J.]

SMS