

IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
BENCH AT AURANGABAD.

915 CRIMINAL APPEAL NO.1158 OF 2019

- 1) Dattarao S/o Shivram Bangar.
- 2) Shivram S/o Ashroba Bangar.
- 3) Kamal W/o Dattarao Bangar.
- 4) Saraswati W/o Shivram Bangar.
- 5) Vishal S/o Rambhau Bangar.
- 6) Bhaurao S/o Dadarao Bangar. **... Appellants**

Versus

- 1) The State of Maharashtra.
- 2) Rukminibai W/o Prakash Doifode. **... Respondents**

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Mr. S. S. Thombre, Advocate for Appellants.

Mr. P. G. Borade, APP for Respondent/State.

Mr. S. V. Mundhe, Advocate for Respondent No.2.

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CORAM : SHRIKANT D. KULKARNI, J.

DATE : 23rd August, 2022.

PER COURT:

. This appeal is directed against the rejection of anticipatory bail order passed by the learned Additional Sessions Judge, Parbhani in Criminal M.A. No.889 of 2019 by invoking Section 14A of the

Scheduled Caste and Scheduled Tribes (Prevention of Atrocities) Act, 1989 (hereinafter referred to as “the Atrocities Act”).

2 Heard Mr. Thombre, learned counsel for the appellants, Mr. Borade, learned APP for respondent/State and Mr. Mundhe, learned counsel for respondent No.2/first informant.

3 The learned counsel for the appellants invited my attention to the copy of FIR, more particularly, first paragraph of the FIR and pointed out that the allegations regarding abuses with reference to caste, are vague in nature. The alleged incident had taken place in the house of the first informant. As such, the provisions of the Atrocities Act may not attract. He further submitted that the so-called word allegedly used by the appellants with reference to caste, even taken at its face value, may not attract the provisions of the Atrocities Act. He submitted that the appellants are on interim protection. There are no reasons to vacate the interim protection granted by this Court in the year 2019. He, therefore, urged to allow this appeal and prayed for confirmation of the interim relief granted by this Court.

4 Mr. Borade, learned APP for the State strongly opposed to grant anticipatory bail to the appellants in view of the allegations made in the FIR with reference to the caste.

5 Mr. Mundhe, learned counsel for respondent No.2 also opposed to grant anticipatory bail. He submitted that there are specific allegations against the appellants for using abusive language with reference to caste of the first informant. As such, the appellants are not entitled to get anticipatory bail.

6 I have considered the submissions of the learned counsel for both the sides. Perused the copy of FIR.

7 On perusing the copy of FIR (page No.13), it would reveal that Crime No.99 of 2019, for the offences punishable under Sections 143, 147, 148, 149, 452, 324, 323, 504 and 506 of the Indian Penal Code and Sections 3(2), 3(1)(r), 3(1)(s) of the Scheduled Caste and Scheduled Tribes (Prevention of Atrocities) Act, 1989 came to be registered at Bamani Police Station, District Parbhani. This Court vide order dated 3rd December, 2019 was pleased to grant interim protection and the same is continued from time to time till this date.

8 On studying the FIR, it would reveal that the present appellants alleged to have used one abusive word with reference to caste of the first informant. It would further reveal that the alleged incident had taken place on 30th October, 2019 about 05:00 pm in the

house of the first informant. In view of the decision of the Apex Court in the case of *Hitesh Verma Vs. State of Uttarakhand and another, (2020) 10 Supreme Court Cases 710*, the offence under the Atrocities Act may attract if a person with an intention to humiliate a member of a Scheduled Caste or a Scheduled Tribe, uses abusive language within a public view. The intention to humiliate a member of a Scheduled Caste or a Scheduled Tribe at the time of incident must be there. On careful study of the FIR, it would reveal that *prima-facie* that intention is absent in order to humiliate the first informant. Furthermore, the alleged incident had taken place in the house of the first informant, which *prima-facie* the provision of Section 3(1)(s) of the Atrocities Act may not attract.

9 Having regard to the above factual aspect, *prima-facie*, it is difficult to attract the provisions of the Atrocities Act. Moreover, there is no report from the investigation machinery that the appellants are not co-operating in the investigation. Under these circumstances, it would be just and proper to grant anticipatory bail to the appellants by setting aside the order passed by the learned Additional Sessions Judge, Parbhani. The conditions can be imposed on the appellants, which would take care of remaining part of investigation.

10 In view of the above, following order is passed:

ORDER

- I. The criminal appeal is hereby allowed.
- II. The impugned order passed by the learned Additional Sessions Judge, Parbhani in Criminal M.A. No.889 of 2019, is hereby quashed and set aside.
- III. In the event of arrest of appellants (Dattarao Shivram Bangar, Shivram Ashroba Bangar, Kamal Dattarao Bangar, Saraswati Shivram Bangar, Vishal Rambhau Bangar and Bhaurao Dadarao Bangar) in connection with Crime No.99 of 2019, registered at Bamani Police Station, District Parbhani, for the offences punishable under Sections 143, 147, 148, 149, 452, 324, 323, 504 and 506 of the Indian Penal Code and Section 3(2), 3(1)(r), 3(1)(s) of the Scheduled Caste and Scheduled Tribes (Prevention of Atrocities) Act, 1989, they shall be released on bail on their furnishing P.R. bond of Rs.15,000/- (Rupees Fifteen Thousand Only) each with one or two solvent sureties of the like amount by each of them on following conditions:

- a) The appellants shall remain present as and when called by the investigating officer and co-operate to the investigation machinery ; and
- b) The appellants shall not tamper with prosecution witnesses and evidence in any manner.

IV. Inform to the concerned police station and Court accordingly.

V. The criminal appeal is accordingly disposed of.

[SHRIKANT D. KULKARNI, J.]

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