

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

CRIMINAL APPEAL NO. 1243 OF 2019

Suresh Ganesh Chavan	... Appellant
Versus	
The State of Maharashtra and another	... Respondents

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Mr. S. S. Thombre, Advocate for appellant
Mrs D. S. Jape, APP for respondent No.1
Ms Neha B. Kamble, Advocate for respondent No.2

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CORAM : R. G. AVACHAT, J.

DATED : 14th MARCH, 2022

ORDER :-

. This is an appeal under Section 14A of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989. The challenge herein is to the order dated 24.10.2019, passed by the Additional Sessions Judge, Parbhani, refusing to grant the appellant pre-arrest bail in connection with Crime No. 0395 of 2019, registered at Jintur Police Station, District Parbhani, for the offences punishable under Sections 341, 327, 323, 504, 506 of the Indian Penal Code and under Section 3(1)(r)(s) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 (for short, 'the Act of 1989').

2. Heard. Perused the First Information Report (F.I.R.) and the related papers.

The F.I.R. has been lodged on 23.09.2019 in relation to the incident that took place two days before. It is alleged in the F.I.R. that the informant along with his cousin Ranuji, had been to Jintur to get a sum of Rs.25,000/- in cash from informant's maternal uncle Bhagwan Chafe. Both, informant and his cousin were on their way back home. It was about 7.30 p.m. They noticed some stones were placed at Donwada Shivar at Malegaon Pimprala road. The informant, therefore, stopped the motorbike. He learnt that the stones were placed by the appellant herein. The appellant arrived there in a short while. He caught hold of the collar of the informant, abused him in filthy language and even over his caste. The appellant robbed him of Rs.25,000/- in cash. He also threatened him if he approach the police to lodge report. The appellant then fled.

3. Both, the learned APP and the learned Advocate appearing for the informant would submit that the allegations in the F.I.R. *prima-facie* make out the offence. There is, bar under Section 18 of the Act of 1989 to grant pre-arrest bail.

4. The learned Advocate for the appellant would, on the other hand, submit that there is delay of 48 hours in lodging the F.I.R. The appellant would deposit the amount of Rs.25,000/- under protest. He, therefore, urged for grant of pre-arrest bail.

5. Considered the submissions advanced. Perused the F.I.R. and the related papers. There is no satisfactory explanation as to why the F.I.R. has been lodged after two days of the incident. Veracity of allegations in F.I.R. is therefore in doubt. So far as regards the informant to have been robbed of Rs.25,000/-, the appellant came forward to deposit that much amount under protest/without prejudice of his rights. The record indicates that interim protection has been granted to the appellant herein way back in December 2019. Over two years and three months have passed thereafter. In this factual backdrop, the appeal is allowed in terms of following order:

ORDER

- (i) The appeal is allowed.
- (ii) In the event of arrest in connection with Crime No. 0395 of 2019, registered at Jintur Police Station, District Parbhani, for the offences punishable under Sections 341,

327, 323, 504, 506 of the Indian Penal Code and under Section 3(1)(r)(s) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989, the appellant 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.

- (iii) As regards the amount of Rs.25,000/-, to be deposited by the appellant, the trial Court shall pass appropriate orders on merits of the matter/case at the time of conclusion of case/ trial and not there-before.

[R. G. AVACHAT, J.]

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