

Anand

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

CRIMINAL APPEAL NO. 851 OF 2021

Basveshwar Arjun Sudake .Appellant

Vs.

The State of Maharashtra & anr. .Respondents

Mr. Veerdhawal Deshmukh a/w Mr. Kamran Shaikh i/b.
Mr. Ritesh Thobade, Advocate, for the Appellant
Ms M. M. Deshmukh, APP, for the Respondent No. 1 – State
Ms Heena Mistry, Advocate, for the Respondent No. 2

CORAM : N. R. BORKAR, J.

DATE : 19.09.2022

P. C.

. This Appeal is filed under Section 14A of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 (“SCST Act” for short) against an order passed by the learned Additional Sessions Judge-2, Pandharpur dated 29.09.2021 in Cri. M. A. No. 836 of 2021.

2. By the order impugned, the trial Court rejected the Anticipatory Bail Application filed by the present Appellant, who is accused in C.R. No. 574 of 2021 registered with the Mangalwedha Police Station, Solapur (Rural) for

the offences punishable under Sections 143, 147, 148, 323, 324, 504, 506 r/w 149 of the Indian Penal Code and under Sections 3(1)(r) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989.

3. On 20.10.2021, this Court passed the following order:-

“1. Heard learned Counsel for the applicant and learned APP for State.

2. In this Appeal, under Section 14A of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 (“Act of 1989” for short), the appellant-accused seeks pre-arrest bail in connection with Crime No. 574/2021 registered with Mangalwedha Police Station, Solapur for the offences punishable under Sections 143, 147, 148, 149, 323, 324, 504 and 506 of the Indian Penal Code and Section 3(1)(r)(s) of the Act of 1989.

3. Primary evaluation of the First Information Report suggests, essentially there is a dispute between the Gram Panchayat and the complainant over a piece of agricultural land, wherein the applicant and the co-accused were allegedly making efforts to erect cement poles.

4. Learned Counsel for the applicant has placed on record, the order dated

29th September, 2021 by which the accused no. 1 in the subject crime has been granted pre-arrest bail. Copy of the order is taken on record and marked "X-1" for identification.

5. Prima-facie, the FIR does not disclose the offence under the Act of 1989. Thus, the following order :

ORDER

(i) Issue notice to respondent no. 2 (complainant) returnable on 25th November, 2021.

(ii) In addition to court service, the concerned Police Station shall serve the respondent no. 2.

(iii) In the meantime, in the event of arrest of the applicant in Crime No. 574/2021 registered with Mangalwedha Police Station, Solapur shall be released on bail on executing P. R. Bond in the sum of Rs. 10,000/- (Rs. Ten Thousand only) with one or more sureties in the like sum.

(iv) The appellant shall join the investigation as and when called by the Investigating Officer and co-operate in the investigation.

6. Stand over to 25th November, 2021."

4. The learned APP on instructions submits that during the pendency of the present appeal the State has filed the charge-sheet in the matter.

5. In view of the filing of charge sheet, instead of entertaining the present Appeal it would be appropriate to direct the Appellant to file Regular Bail Application before the competent Court and to continue the order passed by this Court dated 20.10.2021 till the decision of the competent Court in the Application for Regular Bail.

6. The Appellant is directed to file an Application for Regular Bail within a period of three weeks from today. If such Bail Application is filed, the concerned Court shall decide it on its own merits without being influenced by the order passed by this Court dated 20.10.2021.

7. The interim Anticipatory Bail granted to the Appellant by order dated 20.10.2021 shall continue to operate till the decision of the competent Court in the Application for Regular Bail.

8. The Criminal Appeal is disposed of in the aforesaid terms. Needless to mention that the concerned

Court before passing an order on Regular Bail Application of the Appellant, shall grant an opportunity of hearing to the Respondent No. 2.

(N. R. BORKAR, J.)