

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO.1510 OF 2018

Eknath Haribhau Jarande

Appellant

versus

The State of Maharashtra and another

Respondents

Mr.Vaibhav R. Gaikwad, Advocate for appellant.

Ms.Kirti V. Godbole, Advocate for respondent no.2.

Mr.Arfan Sait, APP, for State.

CORAM : PRAKASH D. NAIK, J.

DATE : 29th June 2022

PC :

1. The appellant is apprehending arrest in CR No.262 of 2018 registered with Koregaon Police Station for offences under Sections 504, 506 r/w 34 of Indian Penal Code and Sections 3(1)(4)(s), 3(2)(v)(ca) and Section 6 of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act.

2. The FIR was registered on 24th September 2018 on the complaint of respondent no.2. On perusal of the complaint it can be seen that role attributed to the applicant is that he has threatened the complainant. The abuses on the basis of caste for which provisions of Atrocities Act were invoked, have not been attributed to the applicant.

3. The co-accused Deepak Sanas had preferred Criminal Appeal No.1316 of 2018 before this Court and the said appeal has been allowed by granting interim bail to the said accused vide order dated

3rd October 2019. While allowing the said appeal it was observed that in order to demonstrate that offence took place in any place within public view witnessing such incident by any independent public witness is necessary.

4. Learned advocate for appellant submitted that in the light of overt act attributed to the applicant, provisions of Atrocities Act cannot be invoked against him. The applicant was granted interim protection by this Court by order dated 18th December 2018.

5. Learned APP submitted on instructions and on the basis of report submitted by police that after completing investigation charge sheet has been filed. The report is placed on record. It is marked as "X" for identification.

6. Learned counsel for respondent no.2 submitted that specific role has been attributed to appellant. Seven witnesses to the incident had filed affidavit in the Trial Court that several persons had seen the incident in public.

7. As stated above, the contents of FIR would indicate that no role of hurling abuses was cast at the applicant. Interim protection was granted to the applicant by this Court with direction to report concerned police station as and when called for. The charge sheet is already filed. Learned advocate for respondent no.2-complainant relies on the affidavits. It is not clear whether statements of those witnesses are recorded. In any case, this Court vide order dated 3rd October 2019 passed in Criminal Appeal No.1316 of 2018 preferred by Deepak Sanas has considered the factual aspects of the matter and

allowed the appeal granting anticipatory bail to the said accused. The tenor of said order indicate that alleged incident is required to have occurred in the presence of independent public witnesses. The Court has also referred to the persons whose statements were recorded during the course of investigation.

8. Be that as it may, in the light of the overt act attributed to the applicant, bar under Section 18 of the Atrocities Act would not be attracted. Case for grant of anticipatory bail is made out. Hence I pass following order :

ORDER

- (i) Criminal Appeal No.1510 of 2018 is allowed and disposed of;
- (ii) Interim order dated 18th December 2018 is confirmed;
- (iii) Order dated 19th November 2018 passed below Exhibit-1 in Bail Application No.919 of 2018 by Special Judge, Satara, rejecting application for anticipatory bail preferred by appellant is set aside;
- (iv) In the event of arrest of appellant in CR No.262 of 2018 registered with Koregaon Police Station, Koregaon, District Satara, the appellant be released on bail on executing PR bond in the sum of Rs.20,000/- with one or more sureties in the like amount.

(PRAKASH D. NAIK, J.)

MST