

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPEAL NO. 54 OF 2021**

Pagur Yogesh Desai

...Appellant

Versus

The State of Maharashtra and anr.

...Respondents

.....

Mr. Niranjan Mundargi i/b Vikram R. Sutaria for the Appellant.

Mr. A.R. Kapadnis, APP for the State.

Mr. Ganesh Bhujbal for Respondent No.2.

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CORAM : N.R. BORKAR, J.

DATE : 19 SEPTEMBER 2022.

P.C. :-

This appeal is filed under Section 14A of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 ("SCST Act" for short) against an order passed by learned Additional Sessions Judge, Mangaon District-Raigad dated 19 December 2018 in Criminal Bail Application No. 238 of 2018.

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. 77 of 2018 registered at Pali Police Station, Raigad for the offences punishable under Section 3(1)(f) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989.

3. On 22 January 2021, this Court passed the following order:

“This is an Appeal under Section 14A of The Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 2015 (for short, “the S.C.& S.T. Act).

2. The appellant is apprehending arrest in CR No.77 of 2018 dated 01/12/2018 registered with Pali Police Station, Raigad for the offence punishable under Section 3(1) F of the S.C. & S.T. Act.

3. Issue notice to the respondent No.2, returnable on 22nd February 2021. In addition to Court notice, the appellant is also permitted to serve the respondent No.2 through private notice and after the said respondent No.2 is duly served, to file an affidavit-of-service in the Registry before the next date.

4. Perusal of documents annexed to the appeal indicates that, in Petition for Special Leave to Appeal (Criminal) No. 1731 of 2019 preferred by the appellant herein against the Judgment and Order dated 5th February 2019 passed by the Co-ordinate Bench of this Court in Criminal Appeal No. 02 of 2019, the Hon’ble Supreme Court has observed that, a closure report was filed by the Investigating Officer and accordingly, the Hon’ble Supreme Court dismissed the said Petition. Learned A.P.P. seeks time to take instructions.

5. In view of the above, as and by way of interim relief, till the next date appellant is protected by pre-arrest bail. Hence, following order :-

(i) In the event of arrest in CR No.77 of 2018 dated 01/12/2018 registered with Pali Police Station, Raigad, the appellant shall be released on bail on his furnishing PR bond in the sum of Rs.15,000/-, with one or two local sureties in the like amount.

(ii) Appellant shall not tamper with the evidence and/or interfere with the process of investigation.

(iii) All the concerned to act on the basis of the authenticated copy of this Order.

6. Stand over to 22nd February 2021.”

4. The learned Counsel for the Appellant submits that during the pendency of the present appeal, the State has filed the charge sheet.

5. In view of the filing of charge sheet, instead of entertaining the present appeal it would be appropriate to direct the appellants to file regular bail application before the competent Court and to continue the order passed by this Court dated 22 January 2021 till the decision of the competent Court in the application for regular bail.

6. The Appellants are directed to file 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 22 January 2021.

7. The interim anticipatory bail granted to the appellants by order dated 22 January 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 aforesaid terms. Needless to mention that the concerned Court before passing an order on regular bail application of appellants, shall grant an opportunity of hearing to Respondent No. 2.

(N.R. BORKAR, J.)