

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

CRIMINAL WRIT PETITION NO. 634 OF 2020

1. Prashant Chandrakant Kale
2. Anuja Prashant Kale ...Petitioners

Versus

The State Of Maharashtra And Anr. ...Respondents

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Mr. Kuldeep U. Nikam, Advocate for the Petitioners.

Mr. S. R. Agarkar, APP for the Respondent – State.

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CORAM : PRAKASH D. NAIK, J.
DATE : 18th JULY, 2022.

PER COURT:

1. The Petitioners are facing prosecution in connection with C.R. No.130 of 2014 registered with Phaltan City Police Station, Dist. Satara for offence punishable under Section 4(1)(r)(s) of Scheduled Caste and Scheduled Tribes (Prevention of Atrocities) Act, 1989 [for short “SC/ST (Prevention of Atrocities) Act”] and Section 420 of Indian Penal Code. The case is pending before the Special Court under the SC/ST (Prevention of Atrocities) Act.

2. On account of non appearance of the Petitioner, the trial Court had issued non-bailable warrant against the Petitioner on 24th July, 2019, 17th August, 2019. Vide order dated 17th August, 2019 the trial Court has also issued directions of no evidence qua the

Petitioner. Thereafter, by order dated 9th September, 2019 bail bonds of the petitioners were forfeited. The petitioner had preferred an application before the trial Court for recalling order dated 24th July, 2019 which application has been rejected by order dated 15th November, 2019.

3. Learned Advocate for the Petitioner submitted that he intends to adduce defence evidence. He may be permitted to do so.

4. The Petitioner had approached this Court challenging the aforesaid orders. By order dated 11th February, 2020 it was observed that though the petitioners were regularly attending the special case, on account of registration of similar offences against them they could not attend the Court as they were pursuing their application for anticipatory bail. In the meanwhile, non bailable warrant was issued against them. It was submitted at the instance of the petitioner that in the event protection is granted to them, they would appear before the trial Court for completing procedural formalities. Considering the said submission, this Court granted interim relief in terms of prayer clause '(b)' to the petitioner and thereby all the impugned orders were stayed.

5. It is submitted that pursuant to the grant of stay, the petitioners are appearing before the trial Court. However, on account of pendency of this petition and the interim relief granted

by this Court, trial could not proceed.

6. Considering the observations of this Court in order dated 11th February, 2020 and the fact that the Petitioners have appeared before the trial Court pursuant to the aforesaid order, the impugned orders which are stayed since 2020 can be set aside by permitting the Petitioners to appear before the trial Court and in the event they intend to examine themselves or any other defence witnesses, they may be permitted to do so.

7. Hence, I pass the following order :

ORDER

- i. The impugned orders dated 24th July, 2019, 17th August, 2019, 9th September, 2019 & 15th November, 2019 passed by the Special Court Satara are set aside.
- ii. The order granting bail to the petitioners is restored.
- iii. The Petitioners are permitted to examine themselves or any other person as defence witnesses.
- iv. The Petitioners shall not delay the trial. They shall appear before the trial Court on the next date of hearing.
- v. In light of the aforesaid directions, Writ Petition No.634 of 2020 stands disposed of accordingly.

(PRAKASH D. NAIK, J.)