

Versus

The State of Maharashtra and another ... Respondents

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Mr. Rupesh Zade for the Appellant.
Mr. A.R. Kapadnis, APP for the State.

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CORAM : N.R. BORKAR, J.
DATED : 19 SEPTEMBER 2022

P.C. :-

This Appeal is filed under Section 14A of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 (“SC/ST Act”) against an order passed by learned Additional Sessions Judge, Baramati dated 16 December 2021 in Criminal Bail Application No.1337 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.1042 of 2021 registered at Indapur Police Station, for the offences punishable under Sections 327, 427, 324, 323, 504, 506, 141, 143, 147, 148 r/w. 149 of the Indian Penal Code and under Sections 3(2)(va) of the SC/ST Act and Section 7(1)(d) of the Protection of Civil Rights Act, 1955.

3. On 14 February 2022, this Court passed the following order :

“1. The First Information Report (for short ‘FIR’) has been registered on 3rd December, 2021 for offence punishable under Sections 141, 143, 147, 427, 327, 323, 324, 504, 148 & 506 of Indian Penal Code (for short ‘IPC’) and Sections 3(2)(va) & Section 6 of Scheduled Caste and Scheduled Tribes (Prevention of Atrocities) Act, 1989 (for short ‘SC & ST Act’) and Section 7(1)(d) of Protection of Civil Rights Act, 1955. Section 3(r)(s) of the SC and ST Act was not invoked while registering the FIR. However, learned APP on instructions submitted that even the said provision has been invoked after registration of FIR.

2. The application for anticipatory bail preferred before the Sessions Court has been rejected by order dated 19th January, 2022.

3. Although while adjudicating the application before the Sessions Court, Section 3(1)(r)(s) of the SC & ST Act was not invoked, the learned Judge has observed that the said provision is not attracted. Similar observations is made out for offence under Section 3(2)(va) of the SC & ST Act. The application has been rejected on the ground that the custodial interrogation of the appellant is necessary for recovery of gold chain.

4. Learned counsel for the appellant submitted that after observing that provisions of the SC & ST act are not applicable, the application for anticipatory bail ought not to have been rejected on the ground of recovery of golden chain. The appellant is initially sound and the allegations of snatching of gold chain is after thought.

5. *Learned APP submitted that the provisions under the SC & ST Act are clearly made out in the FIR. There are statements of two eye witnesses indicating that the golden chain was snatched by the accused.*

6. *As stated above, the learned Sessions Judge has observed that the bar under Section 18 or 18-A of the SC & ST Act is not attracted and the application was rejected on the ground that custody is required or recovery of gold chain. It appears that the quarrel had occurred suddenly. The complainant was allegedly selling banana in the market. He was questioned by the accused. In these circumstances interim relief can be granted to appellant.*

ORDER

i. *Issue notice to respondent No.2, returnable on 14th March, 2022.*

ii. *In the event of arrest of the appellant in connection with C.R. No. 1042 of 2021 registered with Indapur Police Station, Pune Rural, the appellant be released on bail on furnishing P. R. Bond in the sum of Rs.20,000/- with one or more sureties in the like amount;*

iii. *Leave to amend prayer clause. Amendment be carried out within one week.*

iv. *The appellant is directed to attend the investigating officer on 21st, 22nd and 23rd February, 2022 between 11.00 a.m. to 1.00 noon and thereafter as and when called for till the next date of hearing.”*

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

5. In view of the filing of the 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 continue the order passed by this Court dated 14 February 2022 till the decision of the competent court in the application for regular bail.

6. The Appellant is directed to file application for regular bail within 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 14 February 2022.

7. The interim anticipatory bail granted to the Appellant by order dated 14 February 2022 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 the Appellant, shall grant an opportunity of hearing to Respondent No.2.

(N.R. BORKAR, J.)