

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPEAL NO. 156 OF 2022**

Pratik Tulshiram Thorat

... Appellant

Versus

The State of Maharashtra and another

... Respondents

.....

Mr. Rupesh Zade for the Appellant.

Ms. M.M. Deshmukh, APP for the State.

.....

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 29 January 2021 in Criminal Bail Application No.78 of 2022.

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.75 of 2022 registered at Yavat Police Station, for the offences punishable under Sections 323, 504 and 506 r/w. 34 of the Indian Penal Code and under Sections 3(1)(r), 3(1)(s), 3(2)(va) of the SC/ST Act.

3. On 18 February 2022, this Court passed the following order :

“1. Issue notice to respondent no.2, returnable on 15th March, 2022.

2. The applicant is apprehending arrest in connection with C.R.No.75 of 2022, registered with Yavat Police Station, Pune, for the offences punishable under Sections 323, 504 and 506 read with 34 of Indian Penal Code (“IPC”, for short) and Section 3(1)(r), 3(1)(s), 3(2)(va) of The Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 (“SC ST Act”, for short), and Section 7(1)(d) of Protection of Civil Rights Act.

3. The first information report had been registered on 20th January, 2022, in respect to the alleged incident of same date. It is alleged that the complainant was approached by the applicant and threatened him. He was abused on the basis of caste. Thereafter, the applicant and his father co-accused again abused the complainant on the basis of his caste in front of his house.

4. The father of the applicant had preferred an application for anticipatory bail before the Sessions Court, which had been allowed by order dated 29th January, 2022 on the ground that there are no independent witnesses to support the version of complainant.

5. The applicant had preferred a separate application for anticipatory bail. Similar ground was urged before the Sessions Court. However, the application has been rejected by order dated 5th February, 2022. While rejecting the said application, it had been observed that the statements of independent witness was recorded by the investigating officer, which supports the version of the complainant.

6. It is pertinent to note that the statement of

independent witness was recorded on 3rd February, 2022, after the application preferred by the father of the applicant was allowed. Learned counsel for the applicant submitted that there is dispute between the said witness and the applicant. The witness has filed a private complaint against the applicant in the Court of Judicial Magistrate First Class, Daund, for the offences punishable under Sections 452, 323 and 504 read with 34 of IPC on 22nd October, 2019.

7. *In the circumstances, interim relief can be granted to the applicant.*

8. *Hence, I pass the following order:*

:: O R D E R ::

(i) In the event of arrest of the applicant in connection with C.R.No.75 of 2022, registered with Yavat Police Station, Pune, the applicant be released on executing P.R. Bond in the sum of Rs.20,000/-, with one or more sureties in the like amount;

(ii) This interim protection is granted till the next date of hearing;

(iii) The applicant shall report the investigating officer on 22nd, 23rd and 24th February, 2022, between 11:00 a.m. to 01:00 p.m. ”

4. The learned APP on instructions submits that investigation is over and within two weeks charge-sheet will be filed.

5. In view of the fact that the investigation is over and the State is going to file charge-sheet within two weeks, in my view, 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 18 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 the date of filing of the charge-sheet. 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 18 February 2022.

7. The interim anticipatory bail granted to the Appellant by order dated 18 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.)

KANCHAN
PRASHANT
DHURI

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by KANCHAN
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2022.09.19
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