

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

CRIMINAL APPEAL No. 246 OF 2022

Shubham Sanjay Devkate

Appellant

Versus

The State of Maharashtra and Anr. Respondents.

Mr. Rupesh A. Zade, advocate for the Appellant.

Ms. Ameeta Kuttikrishnan, Advocate for the Respondent No.2.

Mr. A. R. Patil, APP for the Respondent – State.

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CORAM : PRAKASH D. NAIK, J.

DATE : 22nd SEPTEMBER, 2022

PC :

1. This is an appeal under Section 14-A of the Scheduled Caste and Scheduled Tribe (Prevention of Atrocities) Act.
2. The appellant is apprehending arrest in connection with FIR No. 48 of 2022 registered with Bhigwan Police Station on 20.02.2022 for the offences punishable under Sections 341, 323, 504, 506 of the Indian Penal Code (for short "IPC") and Sections 3(1)(r), 3(1)(s) and 3(2)(va) of the Scheduled Caste and Scheduled Tribe (Prevention of Atrocities) Act.
3. The complainant has alleged that he belongs to scheduled caste. About three months ago, the appellant had told the complainant not to get associated with Vishya

Deokate. He was abused on the basis of his caste. About one month ago, the appellant again approached the complainant and questioned him for his association with Vishya Deokate and again abused him on his caste. He was threatened. On 19.02.2022 at about 08:30 pm, the appellant again confronted the complainant and questioned him on the same issue. He was assaulted by kicks and again abused on caste. The person accompanying appellant also threatened the complainant.

4. The appellant preferred an application for anticipatory bail before the Sessions Court at Baramati which has been rejected by order dated 02.03.2022.

5. The appellant claims that he is student of in 12th standard. Offence under the Atrocities Act is not made out. The FIR does not refer to presence of any independent person at the time of incident. Investigation is completed and charge-sheet is filed. The interim order was executed and bail was granted to the appellant.

6. Learned APP and learned advocate for respondent No.2 submitted that the offences under the Atrocities Act are made out. In view of Section 18 of the said Act, the

appellant is not entitled for anticipatory bail. Learned APP submitted that the statement of independent person Manohar Gaikwad has been recorded during the investigation. Charge-sheet is filed.

7. The appellant was granted interim relief by this Court vide order dated 08.03.2022. He was directed to report concerned Officer on 13.03.2022 and 20.03.2022 between 10:00 am to 12:00 noon. The complainant has alleged that the first incident of abuses on caste had occurred three months ago. The second incident had occurred about one months ago and the third incident had occurred on 19.02.2022. There was no complaint in respect to the previous incident immediately after the incident. The complainant does not remember exact date of incidents. The main cause of the alleged incident is on account of the association of the complainant with Vishya Deokate. For the said reason the accused has allegedly abused, assaulted and threatened the complainant. There is no reference of incident being occurred in presence of any independent person in FIR. The complainant has not mentioned about presence of Manohar Gaikwad at the time of incident. During the pendency of this application, charge-

sheet has been filed and it is reported that the appellant has been granted bail. Custodial interrogation of the appellant is not required. Bar under Section 18 of the Atrocities Act is not attracted in this case. The incident had not occurred within public view. Hence interim relief granted by this Court can be confirmed.

ORDER

- (i) Criminal Appeal No. 246 of 2022 is allowed.
- (ii) Order dated 02.03.2022 passed by Additional Sessions Judge-2, Baramati, Dist. Pune rejecting the application for anticipatory bail is set aside and interim order dated 08.03.2022 passed by this Court is confirmed.
- (iii) In the event of arrest of the appellant in connection with FIR No. 48 of 2022 registered with Bhigwan Police Station, Pune, the appellant be released on bail on executing PR bond in the sum of Rs. 10,000/- with one or two sureties in the like amount;
- (iv) The appellant shall not tamper with the evidence.
- (v) Criminal Appeal stands disposed of.

(PRAKASH D. NAIK, J.)