

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**CRIMINAL APPELLATE JURISDICTION****CRIMINAL APPEAL NO. 317 OF 2019**

Yogesh Chandrakant Doke

.....Appellant

Vs.

The State Of Maharashtra & Anr.

.....Respondents

Mr. Ganesh Bhujbal for the Appellant.

Mr. S.S. Hulke APP for the Respondent No.1-State.

Mr. Balvendra Singh for the Respondent No.2.

CORAM : A. S. GADKARI, J.**DATE : 5th JULY, 2022.****P.C.:-**

By the present Appeal filed under Section 14-A of the Scheduled Caste and Scheduled Tribes (Prevention of Atrocities) Act, 1989 (for short, "*S.C./S.T. Act*"), Appellant-Original Accused has impugned Order dated 15th February, 2019 passed below Exh-1 in Criminal Bail Application No.76 of 2019, rejecting his Application for grant of anticipatory bail filed under Section 438 of the Code of Criminal Procedure (for short, "*Cr.P.C.*").

2 Heard Mr. Bhujbal, learned Advocate for the Appellant, Mr. Hulke, learned APP for the Respondent No.1-State and Mr. Singh, learned Advocate for the Respondent No.2-informant. Perused entire record.

3 Applicant is apprehending arrest in C.R. No.34 of 2019 lodged with Junnar Police Station, Pune (Rural) under Sections 504 and 506 of the

Indian penal Code (for short, “IPC”) and under Sections 3(1)(r)(1)(5), 3(2)(v) and (3)(1) (M) of the S.C./S.T. Act. The said crime is registered by the Respondent No.2. In her first information report lodged on 9th February, 2019, the Respondent No.2 did not mention her caste. This Court therefore by an Order dated 27th February, 2019 granted ad-interim relief in favour of the Appellant.

Record indicates that, in her supplementary statement dated 9th February, 2019 for the first time, the Respondent No.2 has claimed that, she belongs to “*Hindu Thakar*” caste (Scheduled Tribe) and on the day of the incident, the Appellant abused her on her caste.

4 Appellant has filed an Additional Affidavit dated 18th June, 2022 thereby annexing an Order dated 7th April, 2022 passed by the Caste Scrutiny Committee, Pune Division, invalidating the Caste Certificate dated 31st October, 2015 of “*Hindu Thakar Tribe*” issued in favour of the Respondent No.2.

It is thus clear from the record that, the Respondent No.2 does not belong to ‘*Hindu Thakar*’ *Scheduled Tribe* and therefore she cannot invoke provisions of S.C./S.T. Act to lodge crime against the Appellant.

5 In view of the above, Appellant is entitled to be protected by pre-arrest bail. Interim relief granted by Order dated 27th February, 2019 is hereby confirmed.

6 As the police have already submitted charge-sheet in the present case, the presence of Appellant before the concerned Police Officer or police station is not necessary and the condition No. (v) of Order dated 27th February, 2019 is hereby waived with immediate effect.

7 Impugned Order dated 15th February, 2019 passed below Exh-1 in Criminal Bail Application No.76 of 2019, is accordingly set aside and the Appeal is allowed by confirming the Order dated 27th February, 2019.

8 Appeal is allowed in the aforesaid terms.

9 All the concerned to act on the basis of an authenticated copy of this Order.

(A.S. GADKARI, J.)

SANJIV
SHARNAPPA
MASHALKAR

Digitally signed
by SANJIV
SHARNAPPA
MASHALKAR
Date:
2022.07.07
17:10:35 +0530