

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPEAL NO.251 of 2022**

Vikrant Malojirao Jachak ...Appellant
Versus
The State Of Maharashtra And Anr. ...Respondents

....

Mr. Shailesh Kharat i/by Rajesh V. Katore, Advocate for the Appellant.
Mr. Rupesh A. Zade, Advocate for the Respondent No.2.
Mr. S.R. Agarkar, APP for the Respondent – State.
Mr. Pradeep Kale, Head Constable, Baramati City Police Station, Pune,
Rural.

CORAM : PRAKASH D. NAIK, J.
DATE : 14th SEPTEMBER, 2022.

PER COURT:

1. This is an appeal under Section 14-A of the Schedule Caste and Schedule Tribes (Prevention of Atrocities) Act.
2. The appellant is apprehending arrest in connection with F.I.R. No. 71 of 2022 registered with Baramati City Police Station, Pune Rural on 11th February, 2022 for offences under Sections 341, 504 and 506 of Indian Penal Code (for short 'IPC'), Section 7(1)(d) of Protection of Civil Rights Act and Section 3(1)(r), 3(1)(s) and 3(1)(y) of Scheduled Caste and Scheduled Tribe (Prevention of Atrocities) Act.
3. From the tenor of First information report (for short 'FIR'), it is apparent that there is dispute between the family members of the complainant and the accused. On 11th February, 2022 there was

quarrel between both sides and at that point of time allegedly appellant had abused the complainant and family members on the basis of caste. The first informant has referred to the presence of his relatives at the time of incident.

4. The application for anticipatory bail preferred by the appellant before the Sessions Court has been rejected.

5. Learned Advocate for the appellant submitted that the FIR is concocted. There was no independent person present at the scene of offence. The incident had not occurred within public view. Reliance is placed on the decision of this Court in Criminal Appeal No. 133 of 2018, wherein reference to several other decisions was made by this Court while allowing the application for anticipatory bail.

6. Learned APP submits that the FIR makes out the offence under provisions of Atrocities Act. The charge-sheet indicate that while interim relief was in operation the appellant was arrested and granted bail. Charge-sheet has been filed against accused.

7. Learned Advocate for the Respondent No.2 submits that role has been attributed to the appellant. He has abused the complainant on the basis of his caste. The incident had occurred within public view. This Court had not granted any interim relief to

the appellant after hearing the appeal on merits. However, the interim relief granted by lower Court was extended.

8. Charge-sheet has been filed against the appellant. The contents of the FIR indicate that there are disputes between both sides. The complainant has referred to presence of his family members at the time of incident. On perusal of the charge-sheet, it is apparent that the statement of the independent persons were not recorded. Thus the version of the complainant and his relatives is not supported any independent witness. It is difficult to accept that incident had occurred within meaning of 'Public view'.

9. In this circumstances, appeal deserves to be allowed.

ORDER

- i. Criminal Appeal No. 251 of 2022 is allowed.
- ii. Order dated 23rd February, 2022 passed by Sessions Court rejecting the application for anticipatory bail is set aside.
- iii. In the event of arrest of the appellant in connection with F.I.R. No.71 of 2022, registered with Baramati City Police Station, Pune Rural he may be released on executing P.R. Bond in the sum of Rs.15,000/- with one or more sureties in the like amount;

- iv.** The appellant shall not tamper with the evidence and threaten the witnesses.
- v.** Criminal Appeal is disposed off.

(PRAKASH D. NAIK, J.)