

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPEAL NO. 390 OF 2022**

Dhananjay Chindhu Sawant ...Appellant
Versus
The State Of Maharashtra And Anr. ...Respondents

....

Mr. Shailesh Kharat, Advocate for the Appellant.

Mr. Ajinkya Udhane, Advocate for the Respondent No.2.

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

**CORAM : PRAKASH D. NAIK, J.
DATE : 20th SEPTEMBER, 2022.**

PER COURT:

1. This is an appeal under Section 14-A of the Schedule Caste and Schedule Tribes (Prevention of Atrocities) Act. The appellant is apprehending arrest in C.R. No.I-136 of 2022 registered with Khed Police Station on 6th March, 2022 for offences under Sections 504 and 506 Indian Penal Code and under Sections 3(1)(r), 3(1)(s) and 3(2)(va) of Schedule Castes and Schedule Tribes (Prevention of Atrocities) Act.

2. The complainant has alleged that on 5th March, 2022 at about 2:35 p.m. The complainant and his uncle had visited house of Sandip Sawant. They were talking to several persons who had gathered there. The appellant and another person came to the spot. The appellant was armed with knife. Both were talking to complainant and others. At that time the appellant demanded the

dues of shop from Tukaram Padar. He stated that transaction is between his son and appellant and they should sort it out amongst themselves. Appellant told Tukaram Padar that he would keep him in the house of shopkeeper and till the dues are cleared he should do household work of clearing. The complainant intervened and told appellant that transaction is between son of Tukaram and they should sort it out. Since the complainant intervened the appellant rushed at him with knife in his hand and stated that they are Adivasis and abused them. The accused tried to hit complainant with pot filled with water and threatened him.

3. The appellant is granted interim relief by this Court vide order dated 2nd May, 2022, while granting to interim relief it was observed that prima facie the allegations seems to be of general nature. Whether there was intention to humiliate the complainant is the matter which requires consideration.

4. Learned Advocate for the appellant submit that there are no abuses on the caste. Offence under the provisions of Schedule Caste and Schedule Tribes (Prevention of Atrocities) Act are not attracted mere referring Adivasi caste does not amount to abuses on caste. Reliance is placed on the decision of the Delhi High Court in the case of *Prem Mardi V/s Union of India And Ors. 2015 SCC*

Online Del 12039 and the decision of this Court in the case of *Kiran Ingale V/s State of Maharashtra And Anr.* delivered in Criminal Appeal No. 787 of 2018.

5. Learned APP submits that the investigation is completed. Charge-sheet is filed on 4th May, 2022. The statements of witnesses were recorded. They are eye witness to the incident. They have supported the version of the compliance.

6. Learned Advocate for Respondent No.2 submitted that the FIR clearly spells out the offence against the appellant. The facts of the case are required to be considered. The appellant had also threatened the complainant. He was armed with weapon. The complainant and his uncle were abused on caste.

7. FIR indicate that there was altercation between appellant and uncle of complainant on account of dues. The complainant intervened. The incident had occurred suddenly. The accused had allegedly referred to them as Adivasis. From the facts of this case it does not appear that there was any intention to humiliate the complainant and his uncle on caste. The appellant had attended police officer pursuant to the interim relief granted by this Court. Charge-sheet has been filed on completing investigation. The allegations are of general nature. There is no impediment is

allowing the application although there is bar under Section 18 of the Schedule Caste and Schedule Tribes (Prevention of Atrocities) Act.

ORDER

- i. Criminal Appeal No. 390 of 2022 is allowed.
- ii. Order dated 4th April, 2022 passed by Additional Sessions Judge rejecting application for anticipatory bail is set aside.
- iii. Interim relief order dated 2nd May, 2022 is confirmed.
- iv. In the event of arrest of the appellant in connection with in C.R. No.I-136 of 2022 registered with Khed Police Station, the appellant be released on bail on executing P R. Bond in the sum of Rs.15,000/- with one or two sureties in the like amount;
- v. The applicant shall not tamper with the prosecution evidence.
- vi. Appeal stands disposed off.

(PRAKASH D. NAIK, J.)