

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPEAL NO. 431 OF 2021**

Sudesh Alias Bapu Jagannath Darade and anr. ...Appellants

Versus

The State of Maharashtra and anr. ...Respondents

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Mr. Sugandh B. Deshmukh for the Appellants.

Mr. A.R. Kapadnis, APP for the State.

Mr. Sameer Parkar i/b Vaibhav D. Kadam for Respondent No.2.

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CORAM : N.R. BORKAR, J.

DATE : 19 SEPTEMBER 2022.

P.C. :-

This appeal is filed under Section 14A of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 ("SCST Act" for short) against an order passed by learned Additional Sessions Judge, Niphad dated 22 April 2021 in Criminal Bail Application No. 163 of 2021.

2. By the order impugned, the trial Court rejected the anticipatory bail application filed by the present appellants, who are accused in C.R. No. 128 of 2021 registered with Yeola City Police Station, Nashik Rural for the offences punishable under Section 506 read with Section 34 of IPC and under Sections 3(1)(r), 3(1)(s), 3(2)(va)

of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989.

3. On 5 May 2021, this Court passed the following order:

“1. This is an Appeal under Section 14-A of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 (Amendment Act 2015) (for short, ‘S.C. & S.T. Act’) for pre-arrest bail under Section 438 of the Code of Criminal Procedure, 1973 in C.R. No.128 of 2021 dated 15th April 2021 registered with Yeola City Police Station, Nashik Rural, under Sections 506 of the Indian Penal Code and Sections 3(1)(r), 3(1)(s), 3(2)(va) of the S.C. & S.T. Act.

2. It is the case of the Respondent No.2 that, on 15th April 2021, at about 10.00 to 10.30 a.m., the Appellants abused, insulted and threatened him with serious consequences.

3. Mr. Deshmukh, learned counsel for the Appellants submitted that, as a matter of fact, on 15th April 2021 at about 6.02 p.m., the Appellant No.1 had lodged a crime bearing No. 127 of 2021, dated 15th April 2021 registered with Yeola City Police Station, Nashik Rural, against the informant herein and other five persons. That, as a counterblast to his complaint, three separate crimes have been registered against the Appellants by three accused persons therein, namely, Mr. Pramod S. Tribhuvan,

the present informant; Mr. Parvez Riyaz Pathan and Mr. Narendra B. Darade for the same incident. He further submitted that, a bare perusal of present First Information Report would reveal that, no offence as contemplated under Sections 3(1)(r) & (s) of the S.C. & S.T. Act is made out. That, as the offence under Section 506 of the I.P.C. has been, at the most said to have been made out by the informant herein, by operation of section 3(2)(va) of the S.C. & S.T. Act, which is a defining Section an offence under the said Act, at the most, can be said to have been alleged.

4. Issue notice to the Respondent No.2, returnable on 18th June 2021. In addition to Court notice, the Appellants are also permitted to serve Respondent No.2 by private notice and after the Respondent No.2 is duly served, to file an affidavit-of-service in the Registry before the returnable date.

5. Learned A.P.P. waives notice for and on behalf of the Respondent No.1-State and seeks time to take instructions.

6. In view of the above, for the time being, the present Appellants can be protected by interim relief.

7. Hence the following Order.

a) In the event of arrest in C.R. No.128 of 2021, dated 15th April 2021 registered with Yeola City Police Station, Nashik Rural, under Sections 506 of the

I.P.C. and Sections 3(1)(r), 3(1)(s), 3(2) (va) of the S.C. & S.T. Act, the Appellants shall be released on bail on their furnishing separate PR bonds of Rs.10,000/- with one or two separate local sureties in the like amount.

b) Appellants shall not tamper with the evidence and/or pressurize the prosecution witnesses.8. Stand over to 18th June 2021.”

4. The learned Counsel for the Appellants submits that during the pendency of the present appeal the State has filed the charge sheet.

5. In view of the filing of charge sheet, instead of entertaining the present appeal it would be appropriate to direct the appellants to file regular bail application before the competent Court and to continue the order passed by this Court dated 5 May 2021 till the decision of the competent Court in the application for regular bail.

6. The Appellants are directed to file application for regular bail within a period of three weeks from today. 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 5 May 2021.

7. The interim anticipatory bail granted to the appellants by order dated 5 May 2021 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 appellants, shall grant an opportunity of hearing to Respondent No. 2.

(N.R. BORKAR, J.)