

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

CRIMINAL APPEAL NO. 474 OF 2022

Prakash Pandurang Ghorpade ...Appellant
Versus
The State Of Maharashtra And Anr. ...Respondents

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Mr. Rahul S. Kate, Advocate for the Appellant.

None for Respondent No.2.

Mr. Arfan Sait, APP for the Respondent – State.

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CORAM : PRAKASH D. NAIK, J.

DATE : 29th JULY, 2022.

PER COURT:

1. This appeal is directed against an order, dated 21st April 2022 passed by the learned Special Judge, Satara on an application (Exh.1) in Criminal Misc. Application No. 291 of 2022, whereby the prayer of the appellant for pre-arrest bail came to be rejected.

2. The appellant is apprehending arrest in C.R. No.63 of 2022, registered with Borgaon Police Station for the offences punishable under sections 323, 324, 354, 452, 504 and 506 of the Indian Penal Code, 1860 ('the Penal Code') and sections 3(1)(r) and 3(2)(va) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 ("the SC & ST Act, 1989").

3. The indictment against the appellant is that on 6th April 2022, at about 8.45 p.m., the appellant came in front of the house of the first informant and started abusing her father-in-law – Vijay Balu Kamble with reference to his caste. When the first informant came there the appellant abused her in a filthy language and humiliated the first informant and her father-in-law by insulting and intimidating them with reference to their caste. When the first informant went to the rescue of her father-in-law, the appellant dragged her on the road and abused and assaulted her. The appellant allegedly used derogatory language against the members of the caste of the first informant, in general. Thus, the first informant approached the police and lodged report.

4. Apprehending arrest, the appellant preferred application for pre-arrest bail under section 438 of the Code of Criminal Procedure, 1973 (“the Code”)

5. By the impugned order, the learned Special Judge was persuaded to reject the application as the offences punishable under sections 3(1)(r) and 3(2)(va) of the SC & ST Act, 1989 were prima-facie made out, and, thus, bar under sections 18 and 18-A of the SC & ST Act, 1989 would attract.

6. The previous order dated 4th May, 2022 mentions that the respondent No.2-first informant appeared through her advocate. An affidavit was tendered on behalf of the respondent No.2. It is affirmed therein that the appellant and the respondent No.2 and her family members have amicably resolved all the disputes and consent terms are agreed to be fled in the civil proceedings and the parties have also agreed to withdraw all the proceedings instituted against each other. The respondent No.2-first informant had re-affirmed the contents of the affidavit. The respondent No.2 stated that she has fled the affidavit out of her own volition and there is no coercion or duress.

7. It appears that there are pre-existing disputes between the parties. They have amicably resolved the dispute. The respondent No.2-complainant gave express consent to grant relief to the appellant.

8. Interim relief was granted to the appellants by this Court vide order dated 4th May, 2022. Learned APP had tendered report dated 13th July, 2022, wherein it was indicated that after investigation it is found that the case is false and 'B' summary report has been filed. The said report is taken on record.

9. Considering the aforesaid circumstances, interim relief granted by this Court can be confirmed. Hence, I pass the following order :

ORDER

- i. Criminal Appeal No. 474 of 2022 is allowed and disposed of;
- ii. Interim order dated 4th May, 2022 is confirmed.
- iii. Order dated 21st April, 2022 passed by learned Special Judge, Satara rejecting application for anticipatory bail in Cri. Misc. Application No.291 of 2022 is set aside.
- iv. in the event of arrest of the appellant in C.R. No. 63 of 2022 registered with Borgaon Police Station, the appellant be released on bail on furnishing a P.R. bond in the sum of Rs.15,000/- and a surety in the like amount.

(PRAKASH D. NAIK, J.)