

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

CRIMINAL APPEAL NO.805 OF 2019

Rajendra Shahaji Jachak

.. Appellant

Versus

The State of Maharashtra and Anr.

.. Respondents

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Mr.Ranjeet M. Pawar, Advocate for the Appellant.

Ms.M.R. Tidke, APP for the Respondent No.1-State.

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CORAM : SARANG V. KOTWAL, J.

DATED : DECEMBER 01, 2022.

P.C. :

The Appellant has challenged the order dated 27 May, 2019, passed by learned Sessions Judge Baramati, Pune, in Criminal Anticipatory Bail Application No.371 of 2019. In effect he is seeking Anticipatory Bail in connection with C.R.No.374 of 2019, registered at Baramati Police Station, Pune Rural, for the offences punishable under Sections 354 and 352 of the Indian Penal Code ("IPC", for short). Subsequently, the provisions of the Scheduled Caste and Scheduled Tribes (Prevention of Atrocities) Act, 1989 ("SC & ST Act", for short) were added and Sections 3(1)(w)(ii), 3(2)(va) were applied.

2 Heard Mr.Ranjeet Pawar, learned counsel for the Appellant, Ms.M.R. Tidke, learned APP for the Respondent No.1-State.

3 The First Information Report (“FIR”, for short) is lodged by Respondent No.2. The office noting shows that she is served. Therefore, I have heard the Appeal.

4 Respondent No.2 in her FIR has stated that on 25 April, 2019, her husband had left the house to attend his duties. Her mother-in-law had gone to their agricultural land for work. The Appellant who was a neighbour entered her house under some pretext. He then held her hand and told her that he liked her very much and he loved her. Respondent no.2 started abusing him. Then the Appellant left the house. On this basis the FIR is lodged on 25 April 2019. learned counsel for the Appellant submitted that none of the provisions of the SC & ST Act are attracted because though the main ingredients of those sections are that the accused should have knowledge that the complainant belonged to either a Scheduled Caste or a Schedule Tribe. In this case, the FIR does not show that the Appellant was aware of Respondent no.2’s caste or that he had committed those offence with knowledge and requisite intention. He further submitted that the charge-sheet is already filed. The investigation is over and the matter is pending for framing charges.

5 Learned APP opposes this Appeal and submitted that Section 354 of IPC is registered against him.

6 I have considered these submissions. There is force of the submissions made by the learned counsel for the Appellant creating doubt as to whether the provisions of the SC & ST Act are applicable or not. Ultimately, this would be decided during the trial. But at this stage, it does appear that the provisions of SC & ST Act may not be attracted. His custodial interrogation otherwise is not necessary because the charge-sheet is already filed and the trial is ready for hearing. Therefore, the Appellant can be protected by an order of anticipatory bail. The incident is old. More than three years have passed.

7 Hence, I pass the following order :

:: ORDER ::

- (i) Criminal Appeal is allowed and disposed of;
- (ii) In the event of arrest of the Appellant in connection with C.R.No.374 of 2019, registered at Baramati Police Station, Pune Rural, the Appellant is directed to be released on bail on executing P.R. Bond in the sum of Rs.30,000/-, with one or two sureties in the like amount.

(SARANG V. KOTWAL, J.)