

Anand

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

CRIMINAL APPEAL NO. 813 OF 2019

Sambhaji Subhash Shirsat .Appellant

Vs.

The State of Maharashtra & anr. .Respondents

Mr. Laxman S. Deshmukh, Advocate, for the Appellant
Ms M. M. Deshmukh, APP, for the Respondent No. 1 – State

CORAM : N. R. BORKAR, J.

DATE : 19.09.2022

P. C.

. This Appeal is filed under Section 14A of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 (“SCST Act” for short) against an order dated 07.06.2019 passed by the learned Additional Sessions Judge, Pune below Exh. 4 in S. C. No. 2721 of 2019.

2. By the order impugned, the learned Additional Sessions Judge rejected the Anticipatory Bail Application filed by the present Appellant, who is accused in C.R. No. 0165 of 2016 registered with the Samarth Police Station, Pune for the offences punishable under Sections 323, 324,

506 r/w. 34 of the Indian Penal Code and under Sections 3(1)(r), 3(1)(s) and 3(2)(va) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989.

3. On 18.06.2019, this Court passed the following order:-

“1. Heard the respective counsel and the rival submissions. The learned counsel for the respondent no. 2 vehemently submits that the appellant has criminal antecedents inasmuch as the Education Officer has also complained against him. As against this, the learned counsel for the appellant has placed on record the order passed in Criminal Writ Petition No. 5215 of 2017 and one more Criminal Writ Petition No. 3096 of 2018, wherein the criminal proceedings and departmental inquiry initiated against the appellant have been stayed.

2. It is in these circumstances, that this Court cannot be oblivious to the orders passed by Division Bench of this Court. The learned counsel for the appellant submits that the appellant happens to be a leader of the Teacher's Union and he has to fight for their rights and in that course certain complaints are filed against him and according to the learned counsel for the appellant he is fighting against injustice meted out to the teachers.

3. In the present case also he had been to the office of the Education Officer to seek the arrears of the salary of 40 teachers which was withheld only because the Head Master was not appointed. The allegations against the present appellant in the present case are that he had abused the complainant by referring to his caste and lowering his dignity in the eyes of the society only because he belongs to Scheduled caste. In a heat of passion he has also raised his hands and assaulted the complainant alongwith his other associates. The co-accused has been granted pre-arrest bail by the Sessions Court on the ground that although he had assaulted, he had not abused the complainant by referring to his caste.

4. The appellant voluntarily undertakes to work for a social cause during the period when he is granted interim relief. The appellant voluntarily undertakes to visit the Buddha Vihar in Mangalwar Peth and read to the young students belonging to Scheduled Caste the writings / thoughts / theories propounded by Dr. Babasaheb Ambedkar on caste annihilation and secularism for two hours on every Sunday for three consecutive Sundays commencing from 23rd of June 2019 under the supervision of a police constable to be deputed by Samarth Police Station. The appellant voluntarily undertakes to plant 50 saplings/plants in any private aided school within three weeks.

5. The learned APP upon instructions

submits that the officer would cooperate and would request the Buddha Vihar to allow their children/students to take benefit of the services rendered by the present teacher/appellant which will enhance their undertaking on caste annihilation and secularism. In view of this the following order needs to be passed :-

ORDER

By way of ad interim relief in the event of arrest the applicant be enlarged on bail on furnishing P. R. Bond in the sum of Rs. 50,000/- and one or more solvent sureties in the like amount.

6. Stand over to 9th July, 2019.”

4. It appears that investigation is over & the investigating officer has filed the charge-sheet before the Competent Court. Thus, instead of entertaining the present Appeal it would be appropriate to direct the Appellant to file Regular Bail Application before the competent Court and to continue the order passed by this Court dated 18.06.2019 till the decision of the competent Court in the Application for Regular Bail.

5. The Appellant is directed to file an 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 18.06.2019.

6. The interim Anticipatory Bail granted to the Appellant by order dated 18.06.2019 shall continue to operate till the decision of the competent Court in the Application for Regular Bail.

7. The Criminal Appeal is disposed of in the aforesaid terms. Needless to mention that the concerned Court before passing an order on Regular Bail Application of the Appellant, shall grant an opportunity of hearing to the Respondent No. 2.

(N. R. BORKAR, J.)