

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPEAL NO. 637 OF 2021**

Sunanda Sitaram Khade ... Appellant

Versus

State of Maharashtra and another ... Respondents

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Mr. Rushikesh Kale instructed by Mr. Rahul Kate for the Appellant.
Ms. M.M. Deshmukh for the Respondents.

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CORAM : N.R. BORKAR, J.
DATED : 19 SEPTEMBER 2022

P.C. :-

. This Appeal is filed under Section 14A of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 ("SC/ST Act") against an order passed by learned Additional Sessions Judge 2, Baramati dated 16 July 2021 in Criminal Bail Application No.656 of 2021.

2. By the order impugned, the trial court rejected the anticipatory bail application filed by the present Appellant, who is accused in C.R. No.155 of 2021 registered at Bhigwan Police Station, Dist. Pune, for the offences punishable under Sections 504 and 506 of the Indian Penal Code and under Sections 3(1)(r), 3(1)(s), 3(2), 3(2)(va) of the SC/ST Act.

3. On 18 August 2021, this Court passed the following order :

“1. Heard learned Counsel for the appellant.

2. By this appeal, the appellant seeks pre-arrest bail in connection with C.R.No.155 of 2021 registered with the Bhigwan Police Station, Pune, for the alleged offences punishable under Sections 504, 506 read with 34 of the Indian Penal Code and Sections 3(1)(r), 3(1)(s), 3(2) and 3(2)(va) of the Scheduled Caste and Scheduled Tribes (Prevention of Atrocities) Act, 1999 (‘SC/ST Act’ for short).

3. Learned Counsel for the appellant submits that the appellant is a lady and that the allegations made against her are false and baseless. He submits that the incident in question had taken place on 19th June, 2021 in the morning at about 10.00 a.m. whereas the FIR was lodged belatedly in the night. He submits that the allegations that the appellant hurled abuses at the complainant are baseless. He submits that the alleged incident has also not taken place in public view and as such, the provisions of SC/ST Act will not apply. He submits that because of the rivalry in the village and as the appellant had made an application to the village panchayat for complying with the rules for removal of the encroachment, the aforesaid complaint was lodged as against the appellant.

4. Issue notice to the respondents returnable on 22nd September, 2021. Learned APP waives notice on behalf of the Respondent No.1/State. In addition to Court notice, learned Counsel for the appellant to serve the respondents by Advocate’s notice and file affidavit of service before the next date.

5. Notice to indicate that an endeavor shall be made to dispose of the petition finally at the stage of admission, even if none appears on behalf of the said respondents.

6. Learned APP also assures to inform the respondent

No.2 of the next date through the concerned officer of the concerned Police Station.

7. Having heard learned Counsel for the appellant, the appellant has prima facie, made out a case for grant of interim protection. Accordingly, in the meantime, till the next date, the appellant is granted interim protection on the following terms and conditions;

ORDER

(i) In the event of the arrest, the Appellant be enlarged on bail on executing P.R. Bond in the sum of Rs.20,000/- with one or two sureties in the like amount;

(ii) The Appellant shall report to the Investigating Officer of the concerned Police Station on 26th and 27th August, 2021 between 10.00 a.m. to 12.00 noon and thereafter as and when called for;

8. Stand over to 22nd September, 2021.

9. All concerned to act on the authenticated copy of this order.”

4. The learned Counsel for the Appellant submits that during pendency of present Appeal, the State has filed charge-sheet.

5. In view of the filing of the charge-sheet, instead of entertaining the present Appeal it would be appropriate to direct the Appellant to file regular bail application before the competent court and continue the order passed by this Court dated 18 August 2021 till the decision of the competent court in the application for regular bail.

6. The Appellant is directed to file application for regular bail within 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 August 2021.

7. The interim anticipatory bail granted to the Appellant by order dated 18 August 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 the Appellant, shall grant an opportunity of hearing to Respondent No.2.

(N.R. BORKAR, J.)

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