

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

CRIMINAL APPEAL NO. 483 OF 2020

Vijay Purshottam Malangaonkar ..Appellant
Versus
The State of Maharashtra & Anr. ..Respondents

Mr. Prithviraj S. Gole, for Appellant.
Mr. S. R. Agarkar, APP for State/Respondent No.1.

**CORAM : SARANG V. KOTWAL, J.
DATE : 21st NOVEMBER 2022**

PC :

1. The Appellant has challenged the order dated 27/11/2020 passed by Special Judge (Atrocity Act) and Additional Sessions Judge, Islampur, in Criminal Bail Application No.301 of 2020. In fact, the appellant is seeking anticipatory bail in connection with C.R.No.350 of 2020 registered with Ashta police station, under sections 504 and 506 r/w. 34 of I.P.C. and U/s.3(1) (r), 3(1)(s) and 3(2)(va) and 6 of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 (hereinafter referred to as 'SC & ST Act').

2. Heard Shri. Prithviraj Gole, learned counsel for the

Applicant and Shri. Agarkar, learned APP for the State.

3. The prosecution case is reflected in the statement made by the first informant Jayashree Kamble. There are other similar statements i.e. of Sonali who was Jayashree's grand daughter, Varsha Rani who is Jayashree's daughter and of Sonali's father. The prosecution case is reflected in all these statements. Sonali was married to the appellant's son. There was some marital discord and, therefore, Sonali was residing with her parents. Her family tried to make efforts so that Sonali could reside in her matrimonial house. They approached Sonali's husband. That time, he told them that if his parents agreed he had no objection for taking her back to reside in their matrimonial house. There are allegations that, all these witnesses went to the house of the Appellant. All these witnesses in their police statements and Jayashree and Sonali in their statements recorded U/s.164 of Cr.p.c. have made general allegations that, both the accused i.e. the appellant and his wife abused them with reference to their caste. On this basis the F.I.R. was lodged. The investigation was carried out and the statements of the witnesses are recorded. The charge-sheet is already filed.

The Appellant is on interim protection since 2020.

4. Learned counsel for the appellant submitted that the allegations are general in nature. There are no specific allegation of specific utterance directed against the appellant in particular.

5. Learned APP opposed this appeal. He submitted that, all these statements are with reference to the appellant, as well.

6. I have considered these submissions and I have perused the statements of witnesses mentioned herein above. The utterances are attributed commonly to both the accused including the present applicant. However, if the utterances are read in their entirety, it is clear that the utterances can be attributed to the appellant's wife alone because in the same sentence it is mentioned that the appellant's wife was referring herself in first person and had told the witnesses that she was a Corporator and then had threatened her. Therefore, it does appear that the utterance was made by the appellant's wife and not by the appellant. Therefore, the appellant can be protected by an order of anticipatory bail, because the offence under Atrocities Act is not

made out against him, at least prima facie. He is on interim protection since 2020. These circumstances are in his favour. His custodial interrogation is not necessary.

7. Hence, the following order:

O R D E R

- i) In the event of his arrest in connection with C.R.No.350 of 2020 registered with Ashta police station, the appellant is directed to be released on bail on his furnishing P. R. bond in the sum of Rs.30,000/- (Rupees Thirty Thousand Only) with one or two sureties in the like amount.
- ii) It is made clear that, these observations are made only for the purpose of deciding this Appeal.
- iii) The Appeal is disposed of.

(SARANG V. KOTWAL, J.)