

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**CRIMINAL APPELLATE JURISDICTION****CRIMINAL APPEAL NO.742 OF 2022**

Geeta Ganesh Gurav

.....Appellant

Vs.

The State Of Maharashtra & Anr.

.....Respondents

Mr. Anoop R. Pandey for the Appellant.

Mr. Ajay Patil APP, for the Respondent-State.

Mr. Sanjay Jaiswal i/by Mr. Dilip Shinde for Respondent No.2.

Mr. Pranay Kate, API, Nayanagar Police Station present.

**CORAM : A. S. GADKARI AND
PRAKASH D. NAIK, JJ.****DATE : 16th DECEMBER, 2022.****P.C.:-**

1) Present Appeal is directed against Order dated 20th July, 2022 passed below Exh-1 in Criminal Bail Application No.2584 of 2022 in C.R. No.426 of 2022 registered with Navghar Police Station, District Mira-Bhyandar, Vasai-Virar Police under Sections 504, 506, 34 of the Indian Penal Code and under Sections 3(1)(c), 3(1)(r) and 3(1)(s) of Scheduled Caste and Scheduled Tribes (Prevention of Atrocities) Act, 1989 amended in 2015, rejecting the said Application for pre-arrest bail preferred by the Appellant.

2) Heard Mr. Pandey learned Advocate for the Appellant, Mr. Patil, learned APP for the Respondent No.1-State and Mr. Jaiswal, learned Advocate for the Respondent No.2. Perused record of investigation.

3) Respondent No.2. has lodged First Information Report dated 3rd June, 2022 for an alleged incident of abusing him on his caste by the Appellant and her husband on 17th January, 2022. In paragraph No.3 of the First Information Report, specific abuses which are hurled on the caste of the informant have been narrated. As noted earlier, the trial Court by its impugned Order dated 20th July, 2022 has rejected the Application for pre-arrest bail filed by the Appellant.

4) Mr. Pandey, learned Advocate for the Appellant submitted that, the Appellant has been falsely implicated in the present crime. That, the Appellant was also having inimical terms with Hiranman Pandit who is having a shak/shop adjoining to the shop of the informant. That, the story of informant is a concocted one and cannot be believed. That, neither the informant mentioned his own caste nor the caste of the Appellant in the First Information Report which creates doubt about the authenticity of the allegations of the alleged abuses hurled by the Appellant against him. He submitted that, the trial Court did not take into consideration the said facts and has committed an error in rejecting the Application for pre arrest bail preferred by the Appellant.

He therefore prayed that, the impugned Order may be set aside by allowing the Application preferred by the Appellant for pre arrest bail.

5) A bare perusal of First Information Report indicates that, Respondent No.2 has stated his caste as '*Adidraavid*'. He has also specifically

stated the abuses hurled by the Appellant and her husband on his caste on the date and time of incident.

Perusal of record of investigation *prima facie* indicates that, the first informant has produced on record his Community Certificate issued by Tahasildar, Taluka Ulundurpet Dist. Kallakurichi, State of Tamil Nadu stating that, the Appellant belongs to Scheduled Caste as per the Scheduled Caste and Scheduled Tribes Orders (Amendment) Act, 1976 vide Serial No.2. It is therefore *prima facie* discerned that, the informant belongs to a Scheduled Caste as per the said Certificate.

There are at least 3 witnesses to the incident of abuses hurled by the Appellant along with her husband on the caste of Respondent No.2.

6) In view thereof, there is a clear bar under Section 18 of the SC & ST Act to entertain the Application for pre-arrest bail. Even otherwise, after perusing the record of investigation we are satisfied that the offences as alleged against the Appellant under Sections 3(1)(c), 3(1)(r) and 3(1)(s) are *prima facie* made out. In view of the above, no case for grant of pre-arrest bail is made out.

7) Perusal of impugned Order indicates that, the trial Court has not committed any error either in law or on facts while passing the same.

Appeal being dehorse of merits, is accordingly dismissed.

(PRAKASH D. NAIK, J.)

(A.S. GADKARI, J.)