

Anand

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

CRIMINAL APPEAL NO. 848 OF 2021

Amit Arun Patil

.Appellant

Vs.

The State of Maharashtra & anr.

.Respondents

Ms Supriya Kak a/w Mr. Karl Rustomkhan i/b. Mr. Tejas
Hilage, Advocate, for the Appellant

Mr. A. R. Kapadnis, 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 passed by the learned Special Judge & Additional Sessions Judge, Kolhapur dated 18.09.2021 in Criminal Anticipatory Bail Application No. 884 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. 240 of 2021 registered with the Shahuwadi Police Station, Kolhapur for the offences

punishable under Sections 354, 323, 427, 504 and 506 of the Indian Penal Code and under Sections 3(1)(r)(s) and 3(2)(va) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989.

3. On 12.10.2021, this Court passed the following order:-

“1. Heard learned Counsel for the appellant and learned APP for State.

2. Issue notice to respondent no. 2 returnable on 24th November, 2021. In addition to court service, the concerned Police Station shall serve the respondent no. 2 with the proceedings and inform her that the Appeal shall be heard on 24th November, 2021.

3. Primary evaluation of the FIR, divulge that dispute over the open space between the family of the complainant and applicant is pending in civil court and before the District Inspector of Land Records. Any dispute arising on account of boundary, would not disclose the offence under the Act, unless the victim is abused, intimidated or harassed, only, for the reason that, he/she belongs to Scheduled Caste or Scheduled Tribes. Thus, prima-facie, the allegations do not constitute the offence under the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989. In consequence, the following order is passed :

ORDER

(i) The appellant arrested in C. R. No. 240/2021 registered with the Shahuwadi Police Station, Kolhapur, he shall be released on bail on executing P. R. Bond in the sum of Rs. 10,000/- with one or more sureties in the like sum.

(ii) The appellant shall report to the Investigating Officer on 18th, 22nd, 25th and 29th October, 2021 between 11:00 to 1:00 p. m. and thereafter as and when called.

(iii) The appellant shall not tamper with the evidence or attempt to influence or contact the complainant, witnesses or any person concerned with the case.

4. Stand over to 24th November, 2021."

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

5. In view of the filing of 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 to continue the order passed by this Court dated 12.10.2021 till the decision of the

competent Court in the Application for Regular Bail.

6. 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 12.10.2021.

7. The interim Anticipatory Bail granted to the Appellant by order dated 12.10.2021 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 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.)