

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPEAL NO. 1053 OF 2021**

Pandurang B. Unkle and ors. ...Appellants

Versus

The State of Maharashtra and anr. ...Respondents

.....

Mr. Abhishek R. Avachat for the Appellants.

Mr. A.R. Kapadnis, APP for the State.

Mr. R.S. Pachundkar for Respondent No.2.

.....

CORAM : N.R. BORKAR, J.

DATE : 19 SEPTEMBER 2022.

P.C. :-

Not on board. Upon mentioning taken on board.

2. This appeal is filed under Section 14A of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 ("SCST Act" for short) against an order passed by learned Additional Sessions Judge, Pune dated 13 December 2021 in Criminal Bail Application No. 8034 of 2021.

3. By the order impugned, the trial Court rejected the anticipatory bail application filed by the present appellants, who are accused in C.R. No. 865 of 2021 registered with Shirpur Police Station, Pune for the offences punishable under Sections 365, 323, 504, 506 read with

Section 34 of IPC and under Sections 3(1)(r)(s), 3(2)(va) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989.

4. On 13 January 2022, this Court passed the following order:

“1. Heard learned Counsel for the Appellants.

2. By this Appeal, the appellants seek pre-arrest bail in connection with C.R. No. 865 of 2021 registered with the Shirur Police Station, Pune, for the alleged offences punishable under Sections 3(1)(r), 3(1)(s), 3(2)(va) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 and Sections 39 and 45 of the Maharashtra Money Lending (Regulation) Act, 2014 and 365, 323, 504, 506 read with 34 of the Indian Penal Code.

3. Learned Counsel for the appellants submits that a false complaint has been lodged by the respondent No.2 as against the appellants. He submits that the appellants were tenants in the complainant's premises which was given on Leave and License basis to the appellants for 36 months. He submits that similarly placed co-accused has been granted interim protection by this Court vide order dated 16th December, 2021 after observing that “Prima faice, it appears that the victim was not abused or harassed only reason being he belongs to Scheduled Caste”. Learned Counsel for the appellants further submits the falsity of the complaint/FIR is evident from the fact, that although the complainant i.e. the respondent No.2

and his mother were abducted on 31st July, 2021, the complainant's mother in her complaint made to the police on the very next day i.e. on 1st August, 2021 had not spelt out about their alleged abduction by the appellants.

4. Learned Counsel for the respondent No.2 seeks time to file affidavit in reply. The same to be filed in the Registry within two weeks with an advance copy to the learned Counsel for the appellants. Similarly place co-accused i.e. Ramkrushna Rakhmaji Bidgar had been granted interim protection by this Court vide order dated 16th December, 2021.

5. Learned Counsel for the respondent No.2 vehemently opposes for grant of bail.

6. Having heard learned Counsel for the appellants, the appellants have prima facie, made out a case for grant of interim protection. Accordingly, the appellants are granted interim protection from arrest on the following terms and conditions;

ORDER

i) The appellants be enlarged on bail on furnishing P.R. Bond in the sum of Rs.15,000/- each with one or two sureties in the like amount;

ii) The appellants shall report to the concerned officer of the concerned Police Station on 17th, 18th and 19th January, 2022 from 10.00 a.m. to 1.00 p.m. and thereafter, as and when called for.

iii) The appellants to furnish their bank statements to the concerned Officer and shall co-operate with the investigation.

7. Stand over to 8th February, 2022, to be tagged alongwith Criminal Appeal No. 1023 of 2021."

5. The learned APP submits that during the pendency of the present appeal, the State has filed the charge sheet.

6. In view of the filing of charge sheet, instead of entertaining the present appeal it would be appropriate to direct the appellants to file regular bail application before the competent Court and to continue the order passed by this Court dated 13 January 2022 till the decision of the competent Court in the application for regular bail.

7. The Appellants are directed to file 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 13 January 2022.

8. The interim anticipatory bail granted to the appellants by order dated 13 January 2022 shall continue to operate till the decision of the competent Court in the application for regular bail.

9. 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 appellants, shall grant an opportunity of hearing to Respondent No. 2.

(N.R. BORKAR, J.)