

IN THE HIGH COURT OF JUDICATURE AT BOMBAY,  
NAGPUR BENCH, NAGPUR.

CRIMINAL APPEAL NO. 9 OF 2022

Roshan S/o Gautam Dhoke,  
Aged about 30 years, Occ. Private  
R/o Bhilewada, Tah. Ramtek,  
Dist. Nagpur

.... APPELLANTS.

// VERSUS //

1. The State of Maharashtra,  
through Police Station Officer,  
Police Station Ramtek, Nagpur
2. Ravi S/o Jamnadas Kathote  
Aged about 34 years, Occ.  
R/o Kandri Mines,  
Tah. Ramtek, Nagpur

.... RESPONDENTS.

---

Shri Atiya Chaudhari h/f Shri Qureshi, Advocate for Appellant.  
Mrs. S.S.Jachak, A.P.P. for Respondent No.1/State.  
Shri A.D.Tote, Appointed Advocate for the respondent no.2.

---

CORAM : ANIL S. KILOR, J.  
DATED : 31<sup>st</sup> MARCH, 2022.

ORAL JUDGMENT :

The order dated 23<sup>rd</sup> December, 2021 rejecting the anticipatory bail application of the appellant by the learned

Sessions Judge (Special Judge of Atrocity Act), Nagpur in Criminal Bail Application No. 3727 of 2021 in Crime No. 351 of 2021 is under challenged.

2. **Admit.**

3. Heard learned counsel for the respective parties.

4. Shri Chaudhari, learned counsel for the appellant submits that the name of the appellant is not there in the First Information Report and without any material available with the prosecution to show any involvement of the appellant in the alleged offence, he has been arrayed as accused. It is submitted that he has been falsely implicated in the alleged offence. It is further submitted that he has been attending the police station as per order dated 10<sup>th</sup> January, 2022 granting ad-interim anticipatory bail and there is no complaint about abuse of concession by the appellant.

5. Mrs. S.S.Jachak, learned Additional Public Prosecutor strongly opposed the application, there is material available on record to show the involvement of the appellant.

6. Shri Tote, learned appointed counsel for the respondent no.2 reiterates the submission of the learned Additional Public

Prosecutor and further submits that the custody of the appellant is not necessary in this case for recovery of weapon and other identification parade.

7. I have perused the case diary. There are eye witnesses to the alleged incident but none of the eye witnesses *prima facie* corroborated the story of the prosecution for attracting the provisions of Atrocities Act. Thus, in absence of any *prima facie* incriminating material available on record against the appellant attracting the provisions of Atrocities Act, bar under Section 18 would not come in the way of appellant in this case. As far as the other offences are concerned, *prima facie* there is nothing to show that the appellant is involved in the alleged offence. The name of the appellant is not there in the First Information Report.

6. In that view of the matter in absence of *prima facie* incriminating material available on record against the appellant, I am of the opinion that appellant is entitled for grant of pre-arrest bail. In the circumstances, I pass the following order.

#### ORDER

- i. Criminal appeal is allowed;

ii. The order dated 23<sup>rd</sup> December, 2021 passed by the learned Sessions Judge (Special Judge of Atrocity Act), Nagpur in Criminal Bail Application No. 3727 of 2021 is hereby quashed and set aside.

iii. The order granting ad-interim bail to the appellant vide order dated 10<sup>th</sup> January, 2022 is confirmed with modification that the appellant shall attend the concerned police station as and when his presence is required.

iv. The fees of Shri, Tote, learned appointed counsel, is quantified at Rs.2,500/- through High Court Legal Aid Sub-Committee.

**JUDGE**

*S.K.Nair*

Digitally signed  
by  
SACHINDANAND  
K NAIR  
Date: 2022.04.01  
11:03:18 +0530