

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR**

Criminal Appeal No. 10 of 2022

Irshad S/o Hafij Khan

Versus

State of Maharashtra, through Police Station Officer, Police Station
Ramtek, Nagpur and another

Office Notes, Office Memoranda of
Coram, appearances, Court's Orders
or directions and Registrar's order

Court's or Judge's Order

Shri Aanik A. Qureshi, Advocate h/f Shri Qureshi Asif,
Advocate for the appellant.

Shri Sagar Ashirgade, APP for the respondent no.1.

Shri Ajay D. Tote, Appointed Advocate for the
respondent no.2.

CORAM : ANIL S. KILOR, J.

DATED : 3rd MARCH, 2022.

On the allegation that main accused Junaid Khan @ Dadabai and two unknown accused persons assaulted the complainant and abused him on his caste, Crime No. 512 of 2021 was registered with Ramtek Police Station, Nagpur Rural on 3rd December, 2021 for the offence punishable under Sections 143, 147, 149, 324, 504, 506 read with Section 34 of Indian Penal Code and Sections 3(1)(r), 3(1)(s) and 3(2)(va) of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989.

2. Thereupon, an application for grant of anticipatory bail was filed before the trial Court which came to be rejected vide order dated 23rd December, 2021, the same is under challenge in this appeal.

3. This Court on 10th January, 2022 had granted ad-interim anticipatory bail to the applicant and accordingly he has attended the police station regularly as directed by this Court.

4. Learned counsel for the applicant states that the name of the applicant does not appear in the First Information Report and there is no incriminating material against the applicant, inspite of the same, he has been arrayed as accused. He, therefore, prays for confirmation of ad-interim bail granted to him.

5. On the other hand, learned Additional Public Prosecutor opposes the application and submits that sufficient material is collected by the Investigating Officer during the investigation, to show the involvement of the applicant. He, accordingly, prays for rejection of the present application.

6. Learned counsel for the respondent no.2 reiterated the contentions raised by the learned Additional Public Prosecutor.

7. On perusal of the case diary and after going through the contents of the First Information Report, *prima facie* no incriminating material is there to show the involvement of the applicant in the alleged offence. The name of the applicant is not there in the First Information Report. In that view of the matter, I am of the opinion that the order dated 10th January, 2022 granted ad-interim anticipatory bail needs to be confirmed.

8. Accordingly, the appeal is allowed.

9. The order dated 23rd December, 2021 passed by the learned Sessions Judge (Special Judge of Atrocity Act), Nagpur in Criminal Bail Application No. 3728 of 2021 is hereby quashed and set aside.

10. The order dated 10th January, 2022 is hereby confirmed.

11. The fees of Shri A.D. Tote, appointed advocate is quantified at Rs.2,500/- to be paid by Legal Aid High Court Sub-Committee, Nagpur.

[ANIL S. KILOR, J.]

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