

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

CRIMINAL APPEAL NO. 31 OF 2022

Rama @ Ramhari S/o Janardhan Thakre,
Aged about 19 years, Occ.:- Student,
R/o.:- Kharola, Tq. Dist. Washim

.... **APPELLANT.**

// VERSUS //

1. The State of Maharashtra,
through Police Station Officer,
Washim (Rural), Tq. Dist. Washim.
2. Vinod S/o Laxman Khadse,
aged about 40 years, Occ. Labour
R/o Kharola, Washim (Rural),
Tq. Dist. Washim.

.... **RESPONDENTS.**

Shri R.L.Kadu, Advocate for Appellant.
Shri Vinod Thakare, A.P.P. for Respondent No.1/State.

CORAM : ANIL S. KILOR, J.
DATED : 20th APRIL, 2022.

ORAL JUDGMENT :

Heard.

2. **ADMIT.**

3. This appeal is arising out of the order dated 27th December, 2021 passed by the learned Additional Sessions Judge, Washim in bail application No. 456 of 2021, rejecting an

application of the appellant for grant of pre-arrest bail in crime No. 398 of 2021 registered with Washim (Rural) Police Station District Washim dated 02.12.2021 for the offence punishable under sections 294, 323, 324, 506 read with Section 34 of Indian Penal Code and Section 3(1)(r), 3(1)(s) and Section 3(2)(v-a) of Scheduled Castes and Scheduled Tribes (Prevention of Atrocity) Act, 1989.

4. I have learned Shri R.L.Kadu, learned counsel for the appellant and Shri Vinod Thakare, learned Additional Public Prosecutor. None for the respondent no.2, though served.

5. Shri Kadu, learned counsel for the appellant submits that there is a delay in lodging the First Information Report, of about 13 days. He further submits that the appellant has been falsely implicated in the alleged offence.

6. Shri Kadu, learned counsel for the appellant submits that as there is no *prima facie* material available on record which would attract the provisions of Atrocities Act, bar under Section 18 will not come in the way of appellant for grant of pre-arrest bail.

7. On the other hand Shri Thakare, opposed the present

appeal and submits that there are statement of witnesses which corroborates the case of the prosecution. He, accordingly, prays for rejection of this appeal.

8. I have gone through the case diary and also contents of the First Information Report.

9. There is a statement of independent witnesses who does not support the case of the prosecution and other witnesses are the complainant himself, his wife and son. There are no independent witnesses, except the one referred herein above. The delay in lodging the FIR *prima facie* creates doubt about the veracity of the complaint. In the circumstances as there is no *prima facie* incriminating material available against the appellant to show the involvement of the appellant in the alleged offence. More particularly the offence under the Atrocities Act, bar under Section 18 would not come in the way of the appellant.

10. The injury report *prima facie* does not support the case of the prosecution to attract the offence under section 323 of Indian Penal Code. Moreover as the custody of the appellant is not necessary in this case, I am of the opinion that appeal needs to be

allowed and order dated 19th January, 2022 granting ad-interim bail should be confirmed. Accordingly, I passed the following order:

ORDER

- i. The criminal appeal is allowed.
- ii. The order dated 27th December, 2021 passed by the learned Additional Sessions Judge, Washim in Bail Application No. 456 of 2021 is hereby quashed and set aside.
- iii. The order dated 19th January, 2022 granting ad-interim anticipatory bail is hereby confirmed with a modification that the appellant shall attend the concerned police station as and when his presence is required.

The Criminal Appeal stands **disposed of** accordingly.

JUDGE

S.K.Nair

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