

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

CRIMINAL APPEAL NO. 238 OF 2022

Sau. Kantabai @ Suryakanta GajananPande vs. State of Maharashtra & anr.

Office notes, Office Memoranda of
Coram, appearances, Court's orders
or directions and Registrar's orders.

Court's or Judge's Orders.

Mr. Ram Karode, Advocate for appellant.
Mr. A. S. Fulzele, APP for respondent No.1 State.

**CORAM : MANISH PITALE AND
G. A. SANAP JJ.**

DATE : 19/08/2022

This is an appeal filed under Section 14(A) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989, whereby the appellant, one of the accused concerning First Information Report (FIR) dated 17/02/2022, has challenged order dated 06/04/2022, passed by the Additional Sessions Judge, Khamgaon, whereby, her application for anticipatory bail was rejected and she has sought relief of anticipatory bail.

2. In the present case, the applicant is one of the accused in connection with the aforesaid FIR concerning offences under Sections 452, 324, 336, 436, 337, 109 read with 34 of the Indian Penal Code (IPC) and under Sections 3(1)(r), 3(1)(s), 3(2)(four), 3(2)(three), 3(2)(va) of the Scheduled Castes

and Scheduled Tribes (Prevention of Atrocities) Act, 1989.

3. The role attributed to the applicant is limited and it finds mention in our order dated 19/04/2022 passed in the present appeal, which reads as follows :-

“6. The case of the prosecution, as is discernible from the First Information Report, is that when the informant was in her house, the Appellant along with her husband and two sons entered the house and abused the informant with reference to the informant’s caste. The Appellant is alleged to have entered into a scuffle with the informant and has tore her clothes. The role attributed to the husband of the Appellant is that he was carrying an ‘Axe’ and he attacked the brother-in-law of the informant, and the husband and sons of the Appellant caused damage to the house.

7. Learned Counsel for the Appellant submitted that the other accused have been granted regular bail and the accused Sunil has been granted Anticipatory Bail by the Sessions Court.

8. Learned In-charge Public Prosecutor opposed grant of any ad-interim order.

9. A perusal of the First Information Report shows that the role of the Appellant is that the Appellant slapped the informant and tore her clothes. As regards the words with reference to caste, there is nothing specific. Also, it is pointed out by the learned Counsel for the

Appellant that the incident has taken place inside the house and not in public view. As regards the offences punishable under the Indian Penal Code, the role of the Appellant of tearing of clothes and slapping the informant is not that serious.”

4. After recording the aforesaid prima facie role attributable to the appellant in the present case, this Court found it fit to grant ad-interim order in favour of the appellant as follows :-

“11. Accordingly, it is directed that in the event of arrest of the Appellant – Sau.Kantabai @ Suryakanta Gajanan Pande in respect of Crime No. 88/2022 dated 12 February 2022 registered with the Police Station, Jalgaon (Jamod), District – Buldhana, the Appellant be released on bail on executing P.R. bond of Rs.25,000/- (rupees twenty-five thousand) with one solvent surety in the like amount.

12. The Appellant shall not, directly or indirectly, make any inducement, threat or promise to any person acquainted with the facts of the accusation against the Appellant so as to dissuade such person from disclosing such facts to the Court or to any Police Officer.

13. If any of the conditions breached, it would be open for the Respondents to apply for cancellation of this ad-interim order.”

5. We have heard the learned counsel for the appellant, as well as the learned APP and we have perused the material placed on record. The learned

APP is unable to demonstrate that the observations made in the aforesaid order of this Court are not in consonance with the material available on record. It is submitted that even if the incident is alleged to have taken place inside the house, there were other persons present, indicating that the ingredients of the offences under the atrocities Act were made out. Despite the aforesaid contention raised by the learned APP we are of the view that the appellant has indeed made out a case for confirmation of the ad-interim order granted by this Court.

6. In view of the above, the appeal is allowed. The impugned order is quashed and set aside and relief is granted to the appellant by confirming the ad-interim order dated 19/04/2022, passed by this Court.

7. The appellant shall strictly abide by the directions given in paragraph 12 of the above quoted order dated 19/04/2022.

8. The appeal is disposed of in above terms.

JUDGE

JUDGE

*Digitally signed by*RAVIKANT
CHANDRAKANT KOLHE
*Signing Date:*20.08.2022
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