

THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH AT NAGPUR

CRIMINAL APPEAL NO. 244/2022

**State of Maharashtra thr PSO PS Jaripatka, Nagpur ..Versus...Virendra
Ghanshyamdas Kukreja and anr**

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

Court's or Judge's orders

Mr. N.S.Rao, APP for appellant/State.

Mr. Sunil Manohar, Senior Advocate assisted by Mr. Atharva Manohar, Advocate for Respondent No.1

CORAM : AVINASH G. GHAROTE, J.

DATE : 27/06/2022

1] Heard learned APP for appellant/State, who contends that a case for cancellation of the order dated 3.3.2022 (page 30) by which the respondent was directed to be released on anticipatory bail has been made out, inasmuch as according to him, the complaint dated 27.2.2022 (page 17) attributes abuses and insult in caste name to the respondent and therefore, the ingredients of Section 3 (1)(r) and (s) of the Scheduled Caste and Scheduled Tribes (Prevention of Atrocities) Act are satisfied. He further submits that there are criminal antecedents of the respondent for which he invites my attention to the chart at Annexure R-2 (page 18).

2] Mr. Manohar, leaned senior counsel by inviting my attention to the language used in the oral report dated 27.2.2022 submits that no such case is made out. In so far as

the allegations regarding criminal antecedents are concerned in reference to the chart at page 18, he submits that in so far as the offence at Sr.No.2 is concerned, the respondent already stands acquitted on 24.7.2015. The offences shown at Sr.Nos. 3 and 4 are in relation to the Covid protocol under the Disaster Management Act and therefore, have no significance. The offence at Sr.No.1 is in respect of prevention of damage to the public property and also cannot be of any relevance for the purposes of the present matter. The offence at Sr.No.5 is the present case and therefore, the impugned order ought not to be interfered with.

3] I have perused the report dated 27.2.2022. There are two utterances which are claimed to be attributable to the respondent. In so far as the first utterance is concerned, in my considered opinion, it is a plain innocuous statement and there is no insult or intimidation which can be associated with the same, as a result of which the requirement of Section 3(1) (r) of the said Act are not prima facie attracted. In so far as the second utterance is concerned (page 17), the report itself does not attribute this to the respondent, but is a generalized statement made in relation to about 20-25 people present there and therefore on this count itself, the satisfaction of section 3(1)(s) vis-a-vis respondent is not indicated, considering Section 3(1) of the said Act uses the word “whoever”, which would mean a specific person to whom such

a statement is attributable.

4] In so far as the contention that there are criminal antecedents, as rightly pointed out by the learned senior counsel, the offences at Sr.Nos.3 and 4 at page 18 relate to the Covid protocol under the Disaster Management Act and have no relevance. In the offence at Sr.No.2 the respondent stands acquitted on 24.7.2015. In so far as the offence at Sr.No.1 is concerned, that is under the Prevention of Damage to Public Property Act 1984, which by itself does not indicate that there are serious criminal antecedents for which the personal liberty of the respondent needs to be curtailed. The impugned order is a well reasoned one and takes into consideration the various aspects. I therefore do not see any reason to interfere, as there is no merit. The appeal is therefore dismissed.

JUDGE

Rvjalit