

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

CRIMINAL APPEAL NO. 241 OF 2021

Swapnil S/o Kailas Maskar,
Aged about 34 years, Occupation : Service
R/o Depot Managar Quarter, ST Depot
Bus Stand, Jalgaon Jamod,
Tq. Jalgaon Jamod, Dist. Buldhana **APPELLANT.**

// VERSUS //

1. The State of Maharashtra,
through Police Station Officer,
Police Station Jalgaon Jamod,
Tq. Jalgaon Jamod, Dist. Buldhana.
2. Vishnu Mahadeo Lokhande,
Aged about 41 years, Occ. Service
R/o Sai Nagar, Jalgaon Jamod,
Dist. Buldhana. **RESPONDENTS.**

Shri Anil J. Thakkar, Advocate for Appellants.
Shri S.D.Sirpurkar, A.P.P. for Respondent No.1/State.

CORAM : ANIL S. KILOR, J.
DATED : 4th MAY, 2022.

ORAL JUDGMENT :

Heard.

2. **ADMIT.**

3. The present appeal is arising out of rejection of pre-arrest bail vide order dated 9th June, 2021 passed by I/c Additional Sessions Judge, (Adhoc DJ-1), Khamgaon, District Buldhana in Anticipatory Bail Application No. 214 of 2021 in connection with Crime No. 441 of 2021 registered with Jalgaon Jamod Police Station for the offence punishable under Sections 294, 323, 506 of the Indian Penal Code and Sections 3(1)(r), 3(2)(va), 3(1)(s) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocity), Act, 1989. This Court vide order dated 24th June, 2021 granted ad-interim anticipatory bail to the appellant and as per one of the conditions, he has attended the police station on 26th, 27th and 28th June, 2021.

4. During the pendency of the present appeal, the police have filed “B” Summary Report on the basis of material collected during the investigation namely the CCTV Footage, call data record and tower location of the accused person, wherefrom the police have arrived at a conclusion that on the date of incident and time the accused were not present in front of the house of the complainant and the complaint is after thought and filed belatedly.

5. Learned counsel for the respondent submits that he wants to file objection to the “B” Summary Report submitted by the police.

6. Be that as it may, at this stage *prima facie* the investigation shows that on the date of incident and time, the appellants were not present in front of the house of the complainant.

7. Thus, I am of the opinion that in absence of *prima facie* incriminating material available on record against the appellant the bar under Section 18 would not come in the way of the appellant. Accordingly, I pass the following order.

ORDER

- i. Criminal appeal is allowed;
- ii. Order dated 9th June, 2021 passed by I/c Additional Sessions Judge, (Adhoc-DJ-1), Khamgaon, Dist. Buldana in Anticipatory Bail Application No. 214 of 2021 is hereby quashed and set aside;
- iii. The order granting ad-interim bail dated 24th June, 2021 is hereby confirmed with 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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