

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

CRIMINAL APPEAL NO. 337 OF 2021

Sagar S/o Dilip Rathi

Versus

State of Maharashtra, through P.S.O., P.S. Jalgaon Jamod, Dist. Buldhana 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 A.P. Kalmeghe, Advocate for the appellant.

Shri S.A. Ashirgade, A.P.P. for the respondent/State.

CORAM : ANIL S. KILOR, J.

DATED : 23/02/ 2022

1. This appeal is arising out of the order dated 11.08.2021 rejecting the application moved by the applicant for grant of pre-arrest bail in Crime No. 561 of 2021 registered with Police Station Jalgaon Jamod for the offences punishable under Sections 323, 506 and Section 3(1)(r), 3(10)(s) and 3(2)(va) of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989, passed by the learned Additional Sessions Judge, Khamgaon, Dist. Buldhana.

2. Shri Kalmeghe, learned counsel for the appellant states that there are allegations in the First Information Report that the appellant has abused the complainant on his caste and threatened him. He submits that no such incident had taken place and the complainant

lodged a complaint only with an intention to falsely implicate the appellant in the alleged offences as the appellant demanded money from the complainant towards the seeds purchased by him from the appellant.

3. Shri Kalmeghe, learned counsel for the appellant submits that the appellant was protected by ad-interim anticipatory bail vide order dated 21.08.2021 and during the period when he was on bail, he did not misuse the liberty.

4. On the other hand, Shri S.A. Ashirgade, learned A.P.P. has pointed out the statements of witnesses recorded during the investigation, from the case diary and submits that as there is material against the appellant, this Court may not grant bail to the appellant.

5. I have perused the case diary and also the allegations made in the FIR.

6. There are statements recorded by the Investigating Officer during the investigation. On perusal of the case diary, it is revealed that two witnesses who are independent witnesses, in their statements did not refer to any abuses on caste as alleged by the complainant. Thus, *prima facie*, it creates doubt that the

allegations made in the FIR attract the provisions of Atrocities Act.

7. Moreover, nothing has been pointed out why the custody of the appellant is necessary in the alleged offence. In that view of the matter, I am of the opinion that this is a fit case to confirm *ad-interim* anticipatory bail granted to the appellant vide order dated 21.08.2021. Accordingly, I pass the following order:

- a) The appeal is allowed.
- b) The order passed by learned Additional Sessions Judge, Khamgaon, Dist. Buldhana in A.B.A. No.333 of 2021 on 11.08.2021, is hereby quashed and set aside.
- c) The order passed by this Court on 21.08.2021, is confirmed.

The criminal application is disposed of, accordingly.

[ANIL S. KILOR, J.]

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