

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

CRIMINAL APPEAL NO.432 OF 2022

1. Santosh Chandrakant Saoji,
Aged about 45 years, Occ. Reporter,
R/o Rathi Complex, Vakhariya, Tq.
Akot, Dist. Akola. ... Appellant

// VERSUS //

1. The State of Maharashtra,
Through Police Station Officer, Police
Station Akot, Dist. Akola.
2. Durga Santosh Saoji,
Aged about 22 years, Occ;
R/o Rathi Complex, Vakhariya Jeen,
Akot, Tq. Akot, Dist. Akola ... Respondents

Shri Atharva Hastak, Adv. h/f Shri S.V. Sirpurkar, Adv. for the appellant.
Ms Shamsi Haider, A.P.P. for the respondent No.1/State.
Shri S.D. Chande, Advocate for the respondent No.2.

CORAM : ANIL S. KILOR, J.

DATED : 16 DECEMBER, 2022.

ORAL JUDGMENT

1. Heard Shri Atharva Hastak, learned counsel for the appellant,
Ms Shamsi Haider, learned APP for the respondent No.1/State and Shri
S.D. Chande, learned counsel for the respondent No.2.

2. **ADMIT.**

3. This is an appeal arising out of the order below Exh.01, dated 30/06/2022 passed by the learned Additional Sessions Judge, Akot, Dist. Akola in Misc. Bail Application No.143/2022, rejecting the pre-arrest bail of the appellant in Crime No.331 of 2022 dated 11.06.2022 registered with Police Station Akot, Dist. Akola for the offences punishable under Sections 294, 420, 498-A, 504 read with Section 34 of the Indian Penal Code and Sections 3(1)(r) and 3(1)(s) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 (hereinafter referred to as "Atrocities Act").

4. Shri Atharva Hastak, learned counsel for the appellant submits that the complainant is the second wife of the appellant and to harass him, she has made all sort of allegations including the allegation regarding passing castiest remarks He, therefore, submits that the appellant has been falsely implicated in the alleged offence.

5. The learned counsel for the appellant further submits that the last incident is dated 30.03.2022, whereas, the First Information Report (FIR) was lodged on 11.06.2022 i.e. after three months, the said delay has not been explained by the informant.

6. On the other hand, the learned APP and the learned counsel for the respondent No.2 strongly opposes the present application and submits that though the informant is the wife of the appellant, however, the alleged incident took place in public view and therefore, the bar under Section 18 of the Atrocities Act would attract in this case and therefore, this appeal is not maintainable.

7. I have perused the Case Diary and from the case diary. It appears that there is no eye witness to the alleged incident took place on 30.03.2022.

8. Admittedly, the informant is the second wife of the appellant and between them some dispute is going on. Furthermore, as per own version of the informant, the alleged last incident took place on 30.03.2022, whereas, the complaint was lodged on 11.06.2022 after more than two and half months. The said delay has not been explained by the informant.

9. In the above referred circumstances, it appears that the complaint is malafide and therefore, I am of the opinion that the bar

under Section 18 of the Atrocities Act would not attract in this case while considering the prayer of the appellant for grant of anticipatory bail.

10. Moreover, it is informed that after completion of the investigation, the charge-sheet has been filed. In that view of the matter, I am of the opinion that the custody of the appellant is not necessary. Accordingly, I pass the following order:

- a) The criminal application is **allowed**.
- b) Order dated 30/06/2022 passed by the learned Additional Sessions, Judge, Akot, Dist. Akola, is hereby quashed and set aside.
- c) Order passed by this Court on 11/07/2022, granting *ad interim* anticipatory bail, is confirmed with modification that the appellant shall attend the concerned Police Station as and when his presence is required.

The criminal appeal is **disposed of** accordingly.