

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

CRIMINAL APPEAL NO. 523 OF 2020

- APPELLANTS:**
1. Diliprao s/o Uttamrao Deshmukh,
Age 52 years, Occu: Agriculture.
 2. Pankaj s/o Diliprao Deshmukh,
Age 28 years, Occu: Agriculture.
 3. Pawan s/o Diliprao Deshmukh,
Age 26 years, Occu: Agriculture,
All r/o Hiwra Pen, Tah. Risod,
District-Washim.

..VERSUS..

- RESPONDENTS**
1. State of Maharashtra,
through Police Station Officer,
Police Station Shirpur, District – Washim.
 2. Mrs Surekha w/o Bhimrao Ambhore,
Age 27 years, Occu: Sarpanch,
R/o Hiwra Pen, Tah. Risod,
District Washim.

None for the appellants.

Shri M.J.Khan, APP for the State/Respondent No.1.

CORAM : ANIL S. KILOR, J.

DATE : 04/05/2022

ORAL JUDGMENT :

1. Heard learned APP for the respondent No.1/State. None
for the appellants.

2. **ADMIT**

3. This is an appeal arising out of rejection of pre-arrest bail vide order below Exhibit-1, dated 11/12/2020, passed by the learned Additional Sessions Judge, Washim in Misc. Criminal Application No. 432/2020, in Crime No. 282/2020, dated 28/10/2020, registered with the Police Station, Shirpur, District-Washim, for the offences punishable under Sections 354, 323, 504, 506 read with Section 34 of the Indian Penal Code and Sections 3(1)(r), (s), (w)(i), (w)(ii), 3(2)(va) of the Scheduled Castes and Schedule Tribes (Prevention of Atrocities) Act, 1989 (for short 'the Atrocities Act').

4. Learned APP has pointed out that the offence is registered under the provisions of the Atrocities Act and therefore, bar under Section 18 would apply to this case and accordingly, he submits that this appeal cannot be entertained for grant of pre-arrest bail.

5. I have perused the case diary. The alleged incident was

occurred on 16/10/2020, whereas, the offence was registered on 28/10/2020. There is no independent witness to the alleged incident. Moreover, while explaining the delay, it is stated that because the accused persons assaulted the husband of the complainant, he was required to be hospitalized and on his discharge, the complaint was lodged.

6. The case diary, *prima-facie*, shows that the husband of the complainant was hospitalized on 17/10/2020 and he was discharged on 23/10/2020. Even if, the explanation given by the complainant is considered, there is a delay of 5 days from the date of discharge of husband from hospital, which is not explained. Thus, it creates doubt about the veracity of the allegations.

7. Moreover, the medical documents in the case diary, show that the complaint was examined on 23/10/2020, whereas, on the said date, *prima-facie* there was no FIR.

8. Moreover, the allegation on which the offence was registered under the Atrocities Act are vague and general and particularly, the allegation that the accused person abuse the

complainant and his husband on caste, is omnibus.

9. In that view of the matter, as *prima-facie*, no incriminating material is available on record to show that the involvement of the appellants in the alleged offence attracting the provisions of the Atrocities Act. The bar under Section 18 would not come in the way of the appellants.

10. As far as the other offences are concerned, the injury certificate of the complainant does not corroborates the case of the prosecution. In that view of the matter, I am of the opinion that the custodial interrogation of the appellants is not necessary, in this case. Accordingly, I pass the following order:

- a] The Criminal Appeal is **allowed**.
- b] The order dated 11/12/2020, passed by the Additional Sessions Judge, Washim in Misc. Criminal Criminal Application No.432/2020, is hereby quashed and set aside.
- c] The order granting ad-interim bail dated

20/12/2020, is hereby confirmed with modification that the appellants shall attend the concerned Police Station as and when their presence is required.

The Criminal Appeal stands **disposed of** accordingly.

[ANIL S. KILOR, J.]

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