

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

CRIMINAL APPEAL NO.441 OF 2021

1. Shivraj Wamanrao Mohod,
Age about 38 years, Occ. Social Work,
R/o. Khaitan Nagar, Near Ram Mandir,
Kaulkhed Road, Akola, Tq. and Dist. Akola

...APPELLANT

VERSUS

1. The State of Maharashtra,
through Police Station Officer,
Police Station Khadan, Akola,
Tq. & Dist. Akola
2. Meena Devidas Chavhan,
Aged 35 years, Occ. Service,
R/o. Santosh Nagar, Tukaram Chowk,
Khadan, Akola, Tq. & Dist. Akola

...RESPONDENTS

Shri V.R. Deshpande, Advocate for the appellant.
Shri S.D. Sirpurkar, A.P.P. for respondent No.1.
Shri P.A. Nemade, Advocate for respondent No.2.

**CORAM : ANIL S. KILOR, J.
DATED : APRIL 08, 2022.**

ORAL JUDGMENT :

Heard Shri Deshpande, learned counsel for the appellant,
Shri Sirpurkar, learned Additional Public Prosecutor for respondent No.1/
State and Shri Nemade, learned counsel for respondent No.2.

2. **ADMIT.**

3. In this appeal, the order dated 11/10/2021 passed by the learned Additional Sessions Judge, Akola in Misc. Criminal Application No.886/2021, rejecting the application filed by the appellant for grant of pre-arrest bail.

4. In this case, the complaint was lodged by the complainant making allegations that on numerous occasions, the appellant has insulted the complainant in front of the staff members of the school where the complainant is working as an Assistant Teacher and appellant is the Chairman of the School. It is further alleged that because the complainant belongs to Scheduled Tribe, she was insulted and abused on her caste.

5. Shri Deshpande, learned counsel for the appellant submits that the matter is between the employer and the employee and even on the face of contents of the F.I.R. it can be seen that to maintain the discipline in the School some notices were issued and disciplinary action was proposed against the complainant which resulted in filing of the F.I.R. in question. It is pointed out that even from the version of the complainant, she was not allowed to attend the meeting because she was allegedly absent

for one year. Thereafter, also she was not allowed to attend the School without giving an apology letter for continuously remaining absent for one year. He, therefore, submits that there is nothing to show that the disciplinary action was proposed against the complainant only because she belongs to Scheduled Tribe. It is further submitted that to pressurize the Management and the Chairman of the School not to initiate disciplinary action against the complainant by making false allegations, the alleged complaint came to be lodged. He, therefore, submits that *prima facie* no offence is made out attracting the provisions of Atrocities Act and, therefore, bar under Section 18 of The Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 would not come in the way of the appellant this case.

6. He further submits that this Court vide order dated 21/10/2021 granted ad-interim anticipatory bail to the appellant and there is no complaint about abuse of concession by the appellant. It is further pointed out that a proceeding for quashment of F.I.R. is also pending wherein the Division Bench of this Court has directed not to file charge-sheet until further orders. On the other hand, Shri Sirpurkar, learned Additional Public Prosecutor opposes the present appeal and submits that *prima facie*, sufficient incriminating material is there against the appellant

to attract provisions of Atrocities Act and, therefore, under Section 89 of the Act, there is bar to entertain the prayer of pre-arrest bail.

7. Shri Nemade, learned counsel for the complainant argues that the appellant has misused the liberty granted to them by releasing them on ad-interim anticipatory bail. He submits that after the grant of ad-interim anticipatory bail, the appellant has issued charge-sheet to the complainant to pressurize her. He, therefore, submits that the above referred conduct of the appellant is sufficient to deny pre-arrest bail to the appellant. He further submits that if the complaint of the complainant is taken into consideration in right perspective, many provisions of Atrocities Act would attract in this case, which is a very serious matter. However, the police have only applied Sections 3(1)(r) and 3(1)(u) of the Atrocities Act in this case. He, therefore, submits that this Court may consider this also that this is a case where the offence should be registered in some more provisions of Atrocities Act.

8. To consider the rival contentions of the parties, I have perused the case diary and also the contents of the F.I.R. From the F.I.R. it can be seen that the first incidence is of April, 2021, when the appellant was asked by the President of the Management not to attend the meeting

by giving reason that she was continuously absent in the School for one year. Thereafter, again on the same ground, the President of the Management refused to meet the complainant and her father. Thereafter she was not allowed to attend the school work without giving apology letter. At one place there is allegation that the appellant No.1 has uttered following words relating to caste which are reproduced hereunder in vernacular :

“तुझे जातीची शाळेत नोकरी करण्याची लायकी नाही”

9. On the basis of such incidences, the complainant alleged that because she belongs to Scheduled Tribe such insulted treatment was given to her by the members of the Management and also by the appellant.

10. The above referred instances quoted in the F.I.R. *prima facie* demonstrate that the Management wanted to have discipline in the School and if a teacher is absent continuously for one year it is natural that the Management or the Chairman may issue notice or proceed with the initiation of a disciplinary action by issuing charge-sheet. This rule is applicable for every employee working in any School either such employee belongs to Scheduled Caste or Scheduled Tribe or any other category. From the allegations made in the complaint *prima facie* it cannot be said

that the said action proposed by the Management was only because the complainant belongs to Scheduled Tribe.

11. The contention of the learned counsel for the respondents that the appellant has misused the liberty while they were on ad-interim anticipatory bail, by issuing charge-sheet to the complainant, is misconceived. Issuance of a charge-sheet by the Management is permissible under the relevant provisions of law and the Management has not done anything which is not permissible under the law. Therefore, to turn such action in a way that the charge-sheet was issued to pressurize the complainant, cannot be accepted.

12. As far as the contention of the learned counsel for respondent No.2 that in fact many provisions of the Atrocities Act would attract in this case if the complaint is taken into right perspective, is also misplaced as such argument cannot be accepted while considering the appeal challenging the order rejecting pre-arrest bail. For the said purpose, the complainant is having remedy available but in any case such argument in the present matter cannot be accepted.

13. In the above referred backdrop as this Court has observed that this matter is purely between the Management and an employee and relating to the discipline to be maintained by the employee in the School, *prima facie* I am of the opinion that it cannot be said that the said action was initiated against the complainant only because she belongs to Scheduled Tribe. In that view of the matter as there is no *prima facie* material available on record attracting the provisions of Atrocities Act under Section 18 would not come in the way of the appellant in this case. In the circumstances, I am of the opinion that the appellant are entitled for grant of pre-arrest bail by allowing the appeal.

14. Shri Deshpande, learned counsel for the appellant has drawn attention of this Court to the complaint made by the complainant on 08/10/2021 to the Hon'ble Chief Justice, Bombay High Court and other authorities against the learned Magistrate who had granted ad-interim anticipatory bail to the appellant and in the said complaint, the complainant has alleged favoritism because the learned Magistrate does not belongs to Scheduled Caste and Scheduled Tribe category.

15. In the above referred backdrop has no *prima facie* case is made out against the appellant attracting Atrocities Act and asked the

custody of the appellant is not necessary in this case. I pass the following order :

- i) The appeal is allowed.
- ii) The order dated 11/10/2021 passed by the learned Additional Sessions Judge, Akola in M.C.A. No.886/2021 is hereby quashed and set aside.
- iii) The order dated 21/10/2021 granted ad-interim anticipatory bail is hereby confirmed with modification that the appellant shall attend concerned police station as and when, his presence is required.

Corrected as per
Court's order
dated 06/05/2022

JUDGE

**DB*