

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

CRIMINAL APPEAL NO.646 OF 2022

Usha w/o Shivprasad Nagrik,
Aged about: 29 years, Occ: Housewife,
R/o Moli Mala, Tq. Mehkar, Dist.
Buldhana.

.... Appellant

// **VERSUS** //

1. State of Maharashtra,
Through Police Station Janefal, Tq.
Mehkar, Dist. Buldhana.
2. Raju S/o Ashok Wankhede,
Aged : Major, R/o Moli Mala, Tq.
Mehkar, Dist. Buldhana.

... Respondents

Shri A.J. Bhoot, Advocate for the appellant.
Ms Shamsi Haider, A.P.P. for the respondent No.1/State.
Ms Soniya Gajbhiye, Advocate for the respondent No.2 (Appointed).

CORAM : ANIL S. KILOR, J.
DATED : 29 NOVEMBER, 2022.

ORAL JUDGMENT

1. Heard Shri Bhoot, learned counsel for the appellant, Ms Shamsi Haider, learned APP for the respondent No.1/State and Ms Soniya Gajbhiye, learned counsel for the respondent No.2 (Appointed).

2. **ADMIT.**

3. This is an appeal arising out of the order below Exh.01, dated 15.09.2022 passed by the learned Additional Sessions Judge, Mehkar, Dist. Buldhana in Criminal Bail Appln. No.214/2022, rejecting the pre-arrest bail application of the appellant.

4. In this case, while there are allegations against the other accused persons, as regards abuse on caste or assault, no overt act is attributed to the appellant except the allegation that while the informant was taking her uncle to the hospital, the appellant and one Sharada Shankar Khadsan and Ananta Ramaji Nagrik threatened the informant.

5. Thus, considering the allegation made in the First Information Report (FIR) against the appellant, *prima facie* no offence under the Scheduled Caste and Scheduled Tribe (Prevention of Atrocities) Act, 1989 (hereinafter referred as “the Atrocities Act”), would attract against the appellant.

6. Furthermore, considering the allegation against the appellant, I am of the opinion that custodial interrogation of the appellant is not necessary. In the circumstances, as no offence under the Atrocities Act is attracted. The bar under Section 18 of the Atrocities Act would not come in the way of appellant.

7. In the above referred backdrop, though the learned APP and the learned counsel for the respondent No.2 are opposing the present application, I am of the opinion that the appellant is entitled for grant of bail. Accordingly, I pass the following order:

- a) The appeal is **allowed**.
- b) Order dated 15.09.2022 passed by the learned Additional Sessions Judge, Mehkar, Dist. Buldhana is hereby quashed and set aside.
- c) Order passed by this Court on 30.09.2022, granting *ad-interim* anticipatory bail, is confirmed with modification that the appellant shall attend the concerned Police Station as and when her presence is required.
- d) Fees of Ms Soniya Gajbhiye, the learned counsel for the respondent No.2/Victim, be quantified as per the Rules.

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

[ANIL S. KILOR, J.]