

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

CRIMINAL APPEAL NO. 678 OF 2022

1. Akhil S/o. Gajanan Kuttarmare,
aged about 26 years, Occ: Agriculturist,

2. Jeevan Ghularam Wankhade,
Aged about 58 years, Occupation:
Agriculturist

Both R/o. Village Mangali (Kumbha),
Tq. Maregaon, District : Yavatmal.

.... **APPELLANTS.**

// VERSUS //

1. State of Maharashtra,
Through Sub-Divisional Police
Officer, Wani.

2. The Police Station Officer,
Maregaon, Distt. Yavatmal.

3. Dilip Nanaji Atram,
Aged about 42 years, Occupation:
Agricultural Labour, R/o. Village
Mangali, Tq. Maregaon, District:
Yavatmal.

.... **RESPONDENTS.**

Shri M.I.Dhatrak, Advocate for Appellants.

Ms Shamsi Haider, A.P.P. for Respondent Nos.1 & 2.

Shri Tejas Deshpande, Advocate for Respondent No.3

CORAM : ANIL S. KILOR, J.
DATED : DECEMBER 12, 2022.

ORAL JUDGMENT :

1. In this appeal the order dated 29/09/2022 passed by Special Judge, Kelapur in Criminal Bail Application No.175 of 2022, rejecting application in respect of the appellants for grant of pre-arrest bail is under challenge.

2. At the outset, in view of the specific allegations made by the witness Suraj Baliram Matte in his statement under Section 164 of the Code of Criminal Procedure (Cr.P.C.) against the appellant No.1 that he abused the informant on caste and further in view of the fact that bar under Section 18 of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 (hereinafter referred to as "Atrocities Act") which would operate against the appellant No.1 as the *prima facie* case is made out under the Atrocities Act, the learned counsel for the appellants, on instructions, seeks permission to withdraw the present appeal qua-appellant No.1-Akhil Gajanan Kuttarmare. Accordingly permission is granted.

3. Heard.

4. **ADMIT.** Heard finally by consent of the parties.

5. As far as appellant No.2-Jeevan Ghularam Wankhade is concerned, after going through the charge-sheet and statement under Section 164 of the Cr. P.C., there are no specific allegations against the appellant No.2 which would attract the provisions of the Atrocities Act. As far as other offences are concerned, on completion of the investigation, charge-sheet has already been filed and as such, custodial interrogation of the appellant No.2 is not necessary.

6. In the above referred circumstances, bar under Section 18 of the Atrocities Act would not come in the way of the appellant No.2 while considering his prayer for grant of anticipatory bail. In that view of the matter, I pass the following order :

- i) The Criminal Appeal is partly allowed.
- ii) The Criminal Appeal qua-appellant No.1-Akhil Gajanan Kuttarmare is **dismissed** as withdrawn.

- iii) The Criminal Appeal qua-appellant No.2-Jeevan Ghularam Wankhade is **allowed**.
- iv) The order dated 29/09/2022 passed by learned Additional Sessions Judge, Kelapur, District : Yavatmal in Criminal Bail Application No.175 of 2022 qua-appellant No.2-Jeevan Ghularam Wankhade is hereby quashed and set aside.
- v) The order dated 07/10/2022 granting ad-interim anticipatory bail qua-appellant No.2-Jeevan Ghularam Wankhade is hereby confirmed.
- vi) Ad-interim anticipatory bail granted to appellant No.1-Akhil Gajanan Kuttarmare vide order dated 07/10/2022 stands vacated.
- vii) The appellant No.2 shall attend the concerned Police Station, as and when his presence is required.

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

(ANIL S. KILOR, J)