

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

CRIMINAL APPEAL NO.819 OF 2018

Amol S/o Omprakash Komawar,
Age – 41 years, Occ. Journalist,
R/o Jawahar Colony Road, Near, Durga
Mata Temple, Bhanudas Nagar, Aurangabad,
Tah. and Dist. Aurangabad.
At present Pimpalkhuti, Tah. Kelapur, Dist.
Yavatmal.

... Appellant

// VERSUS //

1. The State of Maharashtra,
Through P.S.O. Pandharkwada, Tah. Kelapur,
Dist. Yavatmal.
2. Rajubhau S/o Narayanrao Todsam,
Aged about: Major, Occ. Member of
Legislative Assembly,
R/o Pandharkwada, Tah. Kelapur, Dist.
Yavatmal.

... Respondents

Shri S.B. Gandhe, Advocate for the appellant.
Shri M.J. Khan, A.P.P. for the respondent No.1/State.
Shri V.M. Kulsange, Advocate for the respondent No.2.

CORAM : ANIL S. KILOR, J.
DATED : 04th APRIL, 2022.

ORAL JUDGMENT

Heard Shri Gandhe, learned counsel for the appellant, Shri Khan, learned A.P.P. for the respondent No.1/State and Shri Kulsange, learned counsel for the respondent No.2.

2. **ADMIT.**

3. This is an appeal arising out of the order dated 19.12.2018, passed below Exh.1 in Miscellaneous Criminal Bail Application No.204 of 2018 passed by the learned Additional Sessions Judge, Kelapur, rejecting the pre-arrest bail of the appellant in Crime No.1129 of 2018, dated 02.12.2018, registered with Police Station Pandharkawada, District Yavatmal, for the offences punishable under Sections 384, 501 and 504 of the Indian Penal Code and Section 3 (1)(r)(s) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 (hereinafter referred to as “Atrocities Act”).

4. The allegations in the First Information Report (FIR) were that there was a demand of money for not publishing the news items against the complainant in the news paper “Patrakar Shakti”

5. Shri Gandhe, learned counsel for the appellant submits that even if the allegations made in the FIR, are taken on its face value, no offence under Section 3(1)(r)(s) of the Atrocities Act would attract. He further submits that the appellant has been falsely implicated in the

alleged offence for the reason that the appellant exposed the complainant by publishing news items against him about his illegalities. He submits that the lodgment of the FIR is a result of such news items published by the appellant.

6. On the other hand, Shri Khan, learned APP strongly opposed the application and submits that there are witnesses to the demand made by the appellant from the complainant for not to publish the news items against him. He, therefore, submits that as there is sufficient material against the appellant, the appeal may be rejected.

7. Shri Kulsange, learned counsel for the respondent No.2-complainant reiterated the submissions of the learned APP and prays for dismissal of the present appeal.

8. I have gone through the Case Diary and also the contents of the FIR.

9. In the FIR, the only allegation attracting the provisions of Atrocities Act is that the appellant has published news items against the

complainant for the reason that he belongs to the Scheduled Tribes category. However, *prima facie* there is no incriminating material available in the Case Diary to support the said allegation that the news items were published only because the appellant belongs to the Scheduled Tribes category. In that view of the matter, *prima facie* in absence of any incriminating material available attracting the provisions of Atrocities Act, the bar under Section 18 of the Atrocities Act would not come in the way of the appellant in this case. As far as the other offences are concerned, no custodial interrogation is necessary. Moreover, the appellant was granted *ad-interim* anticipatory bail vide order dated 24.12.2018 and since then he is on bail and there is no complaint about abuse of concession by the appellant.

10. In that view of the matter, I am of the opinion that the appeal needs to be allowed. Accordingly, I pass the following order:

- a) The Criminal Appeal is **allowed**.
- b) The order dated 19.12.2018, passed below Exh.1, by the learned Additional Sessions Judge, Kelapur in Misc. Criminal Bail Application No.204 of 2018 is quashed and set aside.

- c) The order passed by this Court on 24.12.2018, granting *ad-interim* anticipatory bail, is confirmed.
- d) The appellant shall attend the concerned Police Station as and when his presence is required.

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

[ANIL S. KILOR, J.]