

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD
CRIMINAL APPEAL NO. 146 OF 2023

Deepak s/o Laxman Parkale

Appellant

Versus

1. The Superintendent of Police

2. The Police Station Officer

3. Usha w/o Ravindra Bhosle

Respondents

Mr. R. R. Karpe, Advocate for the appellant.

Mr. G. O. Wattamwar, APP for the State.

Mr. R. M. Gaikwad, Advocate (appointed) for respondent No. 3.

CORAM : R. M. JOSHI, J.

DATE : 22nd JUNE, 2023.

PER COURT :

1. This appeal is filed under Section 14-A of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 seeking anticipatory bail as the learned Sessions judge, Shrigonda has refused anticipatory bail to the appellant by order dated 6th February, 2023.

2. Informant is the member of Scheduled Tribe community. She alleged that there are disputes between her and appellant over gairan land. She states that on 19th January, 2023, at about 11.30 am when she went to the medical shop for recharge of mobile,

applicant and his cousin Om were present in front of the said shop. They started abusing informant and her son. It is alleged that appellant caught hold of neck of the informant and started abusing her. When her son Yogesh intervened, he was assaulted with plastic pipe. She was also assaulted by Om. It is further stated in the report that present appellant abused her over her caste and assaulted her at public place. On the basis of this information, offence came to be registered against the appellant.

3. Learned counsel for the appellant amongst other contentions states that the First Information Report is not lodged immediately and therefore, there is possibility of false implication of the appellant in this crime. It is also submitted that mere mention of caste of the informant does not constitute offence. In support of his contention, he placed reliance on judgment in the case of Ms. Subhadra Sushil Anand and others vs. State of Maharashtra and another, 2007 ALL MR (Cri) 3193. It is also submitted that considering the previous enmity the possibility of false implication cannot be ruled out. Thus, according to him, this is a fit case for grant of anticipatory bail.

4. Learned APP and learned counsel appointed for informant opposed the said contention by stating that offence in question has occurred in public view and the incident in question is witnessed by independent person. It is submitted that this is not a case of mere utterance of the caste of the informant however, if First Information Report is perused, it is clear that the intention of the applicant was to abuse and insult the informant over her caste.

5. As far as contention about alleged delay in lodging First Information Report is concerned, the incident in question has occurred at 11.30 am. In the said incident, the son of the informant was injured and he was sent to Rural Hospital, Shrigonda. It is stated in the First Information Report that after he was treated at hospital, present report is lodged with the police on the same day. Thus, there is sufficient explanation as to why immediate report was not lodged.

6. Informant has specifically narrated the incident which shows that the appellant has abused her over her caste and his intention is apparent from the words uttered by the applicant. Prima

facie, this is not a case where only reference of caste of informant is made without intention to insult her over the same. It is pertinent to note that informant is not making any allegation of abuse at the instance of the appellant against her son. This indicates that the report lodged by the informant is genuine. The incident in question has occurred on the road and that the offence is committed in public view. Perusal of the investigation papers indicates that the informant as well as her son sustained injuries in the said incident which corroborates her version about they being assaulted by the applicant. As regards utterance and occurrence of the incident in the manner narrated by the informant, there is statement of independent witness who has categorically stated about occurrence of such incident. Thus, prima facie, this Court is of the view that the offence alleged against the present appellant under Sections 3(1)(r), 3(1)(s) and 3(2)(va) gets attracted. In view of this, bar of Section 18 of Act would apply.

7. In the result, appellant is not entitled for anticipatory bail. Appeal stands dismissed.

8. Fees of the appointed counsel is quantified at Rs.6,000/-
to be paid by High Court Legal Services Authority.

(R. M. JOSHI)
Judge

dyb