

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

BENCH AT AURANGABAD

CRIMINAL APPEAL NO. 160 OF 2021

SANTOSH LAXMIKANT KULKARNI

VERSUS

THE STATE OF MAHARASHTRA AND ANOTHER

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Advocate for Appellant : Senior Advocate Mr. Rajendrraa Deshmukkh a/w
Mr. Vishal A. Chavan i/by Mr. Padalkar Harshad H
APP for Respondent No.1/State : Smt. D. S. Jape
Advocate for Respondent No.2 : Mr. Govind Kulkarni

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CORAM : KISHORE C. SANT, J.

DATE : 12th APRIL 2023.

Per Court :

Heard the parties.

1. This is an appeal seeking anticipatory bail in the event of his arrest in connection with FIR bearing Crime No. 32/2021 registered at Biloli Police Station, District Nanded for the offences punishable under Sections 294, 504, 506 of the Indian Penal Code and under Sections 3(1) (r) (s) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989.

2. The allegation in the FIR shows that the appellant had abused respondent no.2 in the name of caste on the road. On the basis of that, offence came to be registered. The appellant apprehending his arrest in connection with the said offence filed Criminal Bail Application No.27/2021 in the Court of learned Special Judge, Biloli, Dist. Nanded. The learned Special Judge vide order dated 20.02.2021 rejected the said application, holding that the offence is made out and therefore in view of Section 18, bail cannot be granted in the event of arrest of the appellant.

3. The appellant approached this Court by way of filing this appeal. This Court in its first order dated 25.03.2021 has considered the matter in detail and after considering the judgments of the Hon'ble Apex Court in the case of **Prathvi Raj Chauhan Vs. Union of India and Others**, reported in AIR 2020 SC 1036 and in the case of **Subhash Kashinath Mahajan Vs. State of Maharashtra and Others**, reported in (2018) 6SCC 454, granted interim protection to the appellant, which is still continued. After issuing notice, respondent no.2 has appeared before this Court and has now filed an affidavit stating that because of the

strained relationship on political counts, the FIR was lodged. To keep the peace and harmony and to avoid communal tensions, now the parties have decided not to prosecute the matter. He further stated that he has no objection if the appeal is allowed and the interim protection granted is confirmed. In view of this affidavit, there is sufficient ground to believe that the FIR filed with some motive. Both the parties are present today in the Court and are identified by their advocates.

4. Looking to the observations in the order dated 25.03.2021 and in view of the affidavit filed by respondent no.2, this Court finds that the appeal can be allowed. Hence the following order.

ORDER

- (i) The appeal is allowed.
- (ii) The impugned order dated 20.02.2021 passed by the learned Special Judge, Biloli, Dist. Nanded, is quashed and set aside.
- (iii) In the event of arrest of appellant in connection with FIR bearing Crime No. 32/2021 registered at Biloli Police Station, District Nanded for the offences punishable under Sections 294, 504, 506 of the Indian Penal Code and under Sections 3(1) (r) (s) of the Scheduled Castes and the Scheduled Tribes (Prevention of

Atrocities) Act, he shall be released on bail on executing P.R. bond of Rs.15,000/- (Rupees Fifteen Thousand) with one solvent surety in the like amount.

- (iv) Appellant shall attend the concerned Police Station as and when called by the Investigating Officer.
- (v) Appellant shall not tamper with the evidence and shall not try to contact any of the witnesses.
- (vi) Parties to act upon authenticated copy of this order.

5. With this, the Criminal Appeal is disposed off.

[KISHORE C. SANT, J.]

Najeeb.