

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPEAL NO. 309 OF 2023

Imran @ Tanuja Salman Pathan

Appellant

Versus

State of Maharashtra & another

Respondents

Mr. R. J. Nirmal, Advocate for the appellant.

Mrs. G. L. Deshpande, APP for the State.

Mr. I. D. Maniyar, Advocate for respondent No. 2.

CORAM : R. M. JOSHI, J.

DATE : 12th SEPTEMBER, 2023.

PER COURT :

1. This appeal is filed under Section 14A of Scheduled Caste and Scheduled Tribe (Prevention of Atrocities) Act against the order dated 23rd March, 2023, passed by learned Sessions Judge, Jalna in Criminal Application No. 280/2023 rejecting application for anticipatory bail in connection with Crime No. 123/2023 registered with Kadim Jalna Police Station, Dist. Jalna for the offences punishable under Sections 143, 147, 149, 323, 344, 385, 506 of Indian Penal Code and Sections 3(1)(r), 3(1)(s), 3(2)(va) of the Scheduled Caste and Scheduled (Prevention of Atrocities) Act.

2. First informant reported to the police by stating that there are disputes between the informant, applicant and others. She has stated the incidents occurred prior to about 2 ½ years at Pune. As far as present incident is concerned, it is alleged that on 15th March, 2023, informant was assaulted by appellant and when she was brought to the hospital, appellant came there along with 15 to 20 unknown persons and assaulted her there too. It is alleged that in the said assault, appellant abused her over the caste.

3. Learned counsel for the appellant submits that there is inordinate delay in lodging First Information Report and owing the previous disputes between the parties, false implication cannot be ruled out.

4. Learned counsel for informant and learned APP opposed the application mainly by referring to the statements of two witnesses who witnessed the said incident. By referring to the statement of mother and friend of the informant, it is stated that the informant was not only assaulted by the appellant but was also abused over caste. It is thus contended that in view of bar of Section 18 of Atrocities Act, present appeal deserves to be rejected.

5. From the First Information Report itself, it is clear that there are disputes between the parties. In this regard, attention of the Court is drawn to the report lodged by appellant against the informant on 12th March, 2023. Appellant has also placed on record medical bills which indicate that appellant was admitted in the hospital on 12th March, 2023 and was discharged on 15th March, 2023. It is thus clear that there are previous disputes between the parties. In such circumstances, the Court has to be careful while accepting contentions of either side. In order to attract bar of Section 18 of Atrocities Act, there has to be prima facie case made out of offence punishable under the said Act. In the instant case, except for the offence punishable under Atrocities Act, other offences are bailable in nature. The incident in question has occurred at Government hospital, Jalna. In spite of this fact, the statement of interested persons i.e. mother and friend of informant are recorded. Even statement of friend of the informant is not consistent with the allegations in the First Information Report regarding appellant causing insult of the informant over her caste. All these facts create doubt about genuineness of the allegations in the First Information Report. First Information Report is lodged belatedly hence possibility

of concoction cannot be ruled out. In such circumstances, it is a fit case to allow the appeal. Hence, appeal is allowed in terms of the interim order.

(R. M. JOSHI)
Judge

dyb