

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

CRIMINAL APPEAL NO.364 OF 2023

**JAMAL BABULAL SAYYED
VERSUS
THE STATE OF MAHARASHTRA AND ANOTHER**

Mr. H. D. Deshmukh, Advocate for the appellant
Mr. S. P. Sonpawale, APP for the respondent/State
Mr. G. P. Darandale, Advocate for respondent No.2.

**CORAM : R. M. JOSHI, J.
DATE : 10th JULY, 2023**

P.C. :-

1. The appellant apprehend arrest in connection with Crime No. 383/2023 registered with Newasa Police Station, Dist. Ahmednagar for the offences punishable under Sections 323, 504, 506 read with 34 of IPC and Sections 3(1)(r), 3(1)(s), 3(2)(va) of the Scheduled Caste and Scheduled Tribes (Prevention of Atrocities) Act (for short 'SC and ST Act').

2. On 4th April, 2023 informant gave report to the police about the incident occurred on 3rd April, 2023 at around 10.00 pm in the programme of gathering of the school of Primary School, Zilla Parishad, Tarwadi. It is alleged that the present appellant and his wife came to the spot and prevented the informant and others from playing song on the

sound system. It is also alleged that the appellant herein abused the informant and others over their caste and insulted them.

3. Learned counsel for the appellant states that the first information report lodged by the informant is nothing but a counter blast to the report lodged by the applicant on 4th April, 2023 at around 3.15 am in respect of the incident occurred at 11 pm when the informant and others entered the house of the applicant and abused and threatened appellant and his wife. Reference is also made to the incident occurred in the school gathering at around 8.00 pm. It is submitted that the present first information report is on the face of it false and that the same is lodged with ulterior motive of implicating applicant falsely in this crime.

4. Learned APP and learned counsel for the informant opposed the said submissions by stating that there are statements of independent witnesses in whose presence the incident in question as occurred and that there is support to the contention of the informant in the report about he and others being abused and insulted over the caste.

5. Section 18 of the SC and ST Act creates bar for entertaining application for pre-arrest bail. Section 438 of Cr.P.C. has no application to this Act. *Prima facie* perusal of FIR shows that there are abuses hurled

against informant over his caste, which intends to insult him. Perusal of the investigation papers clearly show that not only the relatives of the informant but independent persons were present at the spot. The statements of these witnesses corroborate the version of the informant in the first information report with regard to the commission of offence under this Act. It is further necessary to note that if the informant intended to falsely implicate applicant in false case, nothing would have prevented him from making similar allegations against wife of applicant, who was also present at spot. Thus this Court finds no reason to disbelieve the report at this stage. Since there is reason to believe that the offence punishable under this Act is committed by the appellant, bar under Section 18 of the Act would attract. In such circumstances, this Court finds no merit in the appeal. Hence appeal is dismissed.

(R. M. JOSHI, J.)

ssp