

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

CRIMINAL APPEAL NO.378 OF 2023

**RUSHIKESH SANJU UDATE AND OTHERS
VERSUS
THE STATE OF MAHARASHTRA AND ANOTHER**

Mr. C. C. Deshpande, Advocate h/f Mr. S. P. Urgunde, Advocate for the appellants
Mr. S. P. Sonpawale, APP for the respondent/State
Mr. K. B. Jadhav, Advocate for respondent No.2.

CORAM : R. M. JOSHI, J.

DATE : 24th AUGUST, 2023

P.C. :-

1. Heard.
2. Applicants apprehend arrest in connection with Crime No. 66/2023 registered with Deoni Police Station, District Latur for the offences punishable under Sections 452, 324, 143, 147, 148, 149, 427, 506 of IPC and under Sections 3(1)(r), 3(1)(s), 3(2)(va) of S.C. and S.T. Prevention of Atrocities Act, 1989 and had filed application for pre-arrest bail before the learned Addl. Sessions Judge by preferring Cri. M.A. (Bail) No. 85/2023. Since the said application is rejected by passing order dated 10/04/2023, the present appeal preferred under Section 14A of S.C. and S.T. Prevention of Atrocities Act.

3. Learned counsel for the appellants submits that except for the offences under the Atrocities Act the other offences are bailable in nature. By referring to the first information report it is submitted that there are no specific allegations against present appellants or any other accused of abusing and causing insult of the informant over his caste. It is also submitted that since the incident in question has allegedly occurred in the house of the informant, the same is not in public view.

4. Learned counsel for the informant and learned APP opposed the appeal by contending that there are specific allegations against the present appellants of abusing the informant over his caste. It is also contended that the said incident has been witnessed by the person as mentioned in the first information report. It is further argued that the offence punishable under Section 452 of IPC is non bailable offence. Thus, according to them there is *prima facie* material on record which indicates that the appellants in crime for the offence punishable under Atrocities Act. They also invoked bar Section 18 of the Act.

5. Perusal of the first information report indicates that there are disputes between the parties over the issue of payment of the labour charges. Some incident has occurred on the previous day. As far as the incident occurred on 15/03/2023 is concerned, the allegation of the

informant that the appellants abused and assaulted him over his caste is not specific to say as to who and how abused him over the caste. It is difficult to accept that in chorus at one point of time all of them could abuse him by making same statement.

6. Having regard to the fact that there are disputes between the parties, the false implication cannot be ruled out. In the absence of specific allegation against the present appellants attracting the provisions of Atrocities Act against them, in considered view of this Court the bar of Section 18 of the Act does not get attracted to the present Case. The learned Addl. Sessions Judge has failed to appreciate his aspect and hence it is a fit case to allow appeal and to release the appellants on anticipatory bail. Hence appeal is allowed in terms of interim order dated 28th April, 2023 with further direction to Appellants to attend the concerned police station once in a week till filing of the charge-sheet.

(R. M. JOSHI, J.)

ssp