

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

CRIMINAL APPEAL NO.528 OF 2023

LAXMI @ KAVITA W/O DEVRAO KEJGIR AND ANOTHER
VERSUS
THE STATE OF MAHARASHTRA AND ANOTHER

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Advocate for Appellants : Mr. S. S. Rath
APP for Respondent No. 1: Mr. V. S. Badakh
Advocate for Respondent No. 2 : Ms. R. R. Tandale
(appointed)

...

CORAM : R.M. JOSHI, J

DATE : AUGUST 29, 2023

PER COURT :

1. This appeal is preferred under Section 14(A) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act raising challenge to the order dated 01.06.2023 passed by learned Additional Sessions Judge, Hingoli in Criminal Bail Application No. 294/2023 rejecting the application for anticipatory bail by the present Appellants.

2. FIR indicates that incident occurred on 18.12.2022 wherein the Appellants and others came to the house of the informant and questioned them as to why amount towards selling of motorcycle is insisted upon. It is alleged that accused persons abused informant

over her caste and thereafter forced her to consume poisonous substance.

3. Learned Counsel for the Appellants submits that Appellants are ladies and that there are no specific allegations against them of committing any overt-act in the incident. As far as allegations in respect of abuses over the caste is concerned, it is contended that the incident has not occurred in public view as no one else has witnessed the same.

4. Learned Counsel for the informant and learned APP opposed the said submissions by referring to the FIR as well as the statements recorded by the investigating agency. Learned Counsel for the informant insisted upon the reading the statements of witnesses who were present at the spot and argued that it is not a case that the offence is not committed within public view.

5. Perusal of the FIR itself shows that there are disputes between the parties over the issue of selling of the motorcycle and non payment of consideration thereof. The incident in question has occurred on

18.12.2022 but the report is lodged on 11.01.2023. Though informant has claimed that she was hospitalized and thereafter reported the incident to the police, however, there is no reason or explanation as to why the incident was not reported to the police by husband of informant, who was present at the spot.

6. The FIR though states about the allegations of insulting her over her castes but her contention that 5 accused persons who simultaneously in chorus abused her accordingly does not become probable. Apart from this it is pertinent to note that at the time of actual occurrence of the incident no one else than the informant and her husband were present at the spot. Thus, the incident has not occurred in public view. Judgment of Hon'ble Apex Court in case of Hitesh Verma Vs. State of Uttarakhand and Another, (2020) 10 SCC 710, therefore, applies to present case. For want of specific allegations against present Appellants of committing offence under the provisions of Atrocities Act, in view of this Court, bar of Section 18 does not get attracted.

7. Having regard to these facts, the impugned

order dated 01.06.2023 passed by learned Additional Sessions Judge, Hingoli in Criminal Bail Application No. 294/2023 is set aside. Criminal Appeal is allowed by confirming order dated 28th June, 2023.

8. Fees of Mrs. R. R. Tandale, learned appointed Counsel for Respondent No. 2, is quantified @ Rs. 6,000/- (Rupees Six Thousand Only) to be paid by High Court Legal Services Sub-Committee, Aurangabad.

(R.M. JOSHI, J.)

Malani