

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD
CRIMINAL APPEAL NO. 700 OF 2023

Sayyad Mohsin s/o Sayyad Kamroddin & another Appellants

Versus

The State of Maharashtra & another Respondents

Mr. Shaikh Abid R., Advocate for the appellants.
Mr. S. P. Sonpawale, APP for the State.
Ms. A. A. Lomte, Advocate appointed for respondent No. 2.

CORAM : R. M. JOSHI, J.
DATE : 26th SEPTEMBER, 2023.

PER COURT :

1. Being aggrieved by order dated 24th July, 2023, passed by learned Additional Sessions Judge, Nanded in rejection anticipatory bail application being Misc. Criminal Bail Application No. 448/2023 filed by the appellants herein, this appeal is filed under Section 14A of Scheduled Caste and Scheduled Tribes (Prevention of Atrocities) Act.

2. Informant reported incident occurred on 28th June, 2023 at about 2.00 pm stating that appellants came in front of her house and had slapped her. They also abused her over her caste. It is claimed that the neighbours came and intervened the said quarrel.

3. Learned counsel for appellants states that there is dispute between the informant and the appellants as the son of accused No. 1 has performed marriage with the daughter of informant and hence the appellants are sought to be falsely involved in this case. It is submitted that the incident has occurred on 28th June, 2023 whereas the report is lodged on 29th June, 2023 which creates possibility of false implication. It is further submitted that the co-accused against whom similar allegations are made are granted anticipatory bail by the learned Additional Sessions Judge.

4. Learned APP and learned counsel for the informant opposed the appeal by submitting that the incident in question has occurred in public view and the same is witnessed by neighbours of the family. It is submitted that there are specific allegations against the appellants of abusing and insulting the informant over her caste and as such the bar of Section 18 of the Act gets attracted in the present case.

5. Perusal of First Information Report indicates that there are some disputes between the parties. Appellants have come out with a specific case that the daughter of the informant had married

the son of accused No. 1 and hence there are disputes between them. As far as the alleged incident is concerned, the same has occurred on 28th June, 2023 at around 2.00 pm whereas the report has been lodged on the next day at about 4.45 pm. Thus, there is reason to accept contention of learned counsel for the appellants that this could be a case of false implication. In this regard, it is pertinent to note that the allegation in the First Information Report is general in nature. Prima facie, it does not stand to any reason to accept the contention of the informant that nine persons in chorus at the same time abused the informant over her caste. Having regard to the dispute between the parties and delay in lodging First Information Report, this Court has reason to accept the contention of learned counsel for the appellants that this could be a case of false implication. Once said possibility is created, bar of Section 18 of the Act may not get attracted to the present case. Hence, appeal is allowed in terms of the interim order.

6. Fees of the appointed counsel is quantified at Rs.6,000/-.

(R. M. JOSHI)
Judge