

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

CRIMINAL APPEAL NO.722 OF 2023

**PRAKASH ANANDA DHEKALE
VERSUS**

THE STATE OF MAHARASHTRA AND ANOTHER

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**Advocate for Appellants : Mr. G. S. Shete
APP for Respondent No. 1: Mr. S. P. Sonpawale
Advocate for Respondent No. 2 : Ms. Pooja Ingale
(appointed)**

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CORAM : R.M. JOSHI, J

DATE : SEPTEMBER 21, 2023

PER COURT :

1. This appeal is against order dated 13.07.2023 passed by Special Judge and Additional Sessions Judge, Parbhani in Criminal Bail Application No. 528/2023 rejecting application for pre-arrest bail in connection with Crime No. 127 of 2023 registered with Jintur Police Station, Dist. Parbhani for the offences punishable under Sections 365, 384, 341, 344, 323, 504, 506 read with Sections 34 of Indian Penal Code and Sections 4(1), 3(1)(r), 3(1)(s) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act (for short 'Atrocities Act').

2. The informant is member of scheduled caste

community. He gave report to the Jintur Police Station on 20.04.2023 claiming that on 25.11.2022 he was working as a labourer with Prabhakar Chavan. On that day Chandu Birgad and others came in a Bolero Jeep and abducted him. It is alleged that he was abused over his caste. It was revealed to the informant that one of the abductor is present Appellant – Prakash Dhekale. It is stated that Appellant had told the informant about Ratan receiving Rs. 11 lacs from him for the purpose of providing sugarcane cutting labours, however, he did not perform the work and therefore, the informant is abducted. It is stated that he has no concern with the said transaction and at that time he was told to make a phone call to his wife for recovery of the money. It is alleged that on 26.11.2022 the informant was abused over his caste and phone call was made to the wife of the informant wherein she was told to pay Rs. 11 lacs. It is also stated in the FIR that on 27.11.2022 police personnel from Jintur Police Station came to the spot however, Appellant tied hands of the informant and concealed him in the sugarcane field. After police left the spot, he was abused and beaten by them. It is contended that somehow the wife of the informant could

pay Rs.10,000/- to the Appellant on 18.12.2022. Thereafter a sum of Rs. 2 lacs in cash was paid to the Appellant and then informant was released.

3. Learned Counsel for the Appellant submits that there is inordinate and unexplained delay in lodging of the FIR and which makes the story of the informant not believable. He further submits that informant is brother-in-law of Ratan with whom agreement was executed by the Appellant for the purpose of supplying sugarcane cutting labourer and for that purpose sum of Rs. 8 lacs has been paid to him. It is submitted that the said Ratan had failed to provide labour and cheque issued by them was dishonoured. It is the contention of learned Counsel for the Appellant that against the said dishonour of the cheque notice was issued by the Appellant which was duly replied by Ratan. Appellant has also filed complaint under Section 138 of Negotiable Instruments Act against Ratan. The present Appellant had lodged report on 17.02.2023 against Ratan and it is the contention of learned Counsel for the Appellant that the first information report in question is by way of counterblast to the said report. It is

submitted that the delay in lodging of the FIR as well as the aforesaid circumstances clearly indicate that it is the case of false implication, he therefore, seeks pre-arrest bail.

4. Learned APP and learned Counsel for informant opposed the said contention by referring to the FIR as well as statements of witnesses recorded during the course of investigation. Learned Counsel for the informant submitted that there is no delay in approaching concerned authority immediately after abduction of the informant as his wife approached to the concerned Magistrate for seeking search of the informant and accordingly, the orders were passed by the Magistrate.

Perusal of the copy of application for issuance of search warrant clearly indicates that the incident in FIR gets corroboration with the said application.

5. It is her further submission that due to the political pressure the complaint of present informant was not accepted. It is also pointed out that there is support to the allegations in the FIR about Rs. 10 lacs

being paid to the present Appellant on 18.12.2022. With these contentions, it is submitted that it is not a fit case for grant of anticipatory bail.

6. At the first blush though it appears that the incident in question has occurred on 25.11.2022 but the report is lodged on 21.04.2023, however, the documents placed on record by the Counsel for the informant are more than sufficiently demonstrate that immediately after the occurrence of the incident appropriate steps were taken to search the informant by his wife. The said application clearly indicates that the incident in question did occur wherein there is abduction of informant in Bolero Jeep No. MH-09-5620. The orders passed by learned Magistrate and averments in the said application support the contention of the informant in the FIR that when police came in search, he was concealed by accused in the sugarcane field. Having regard to relevant facts, this Court finds that it is not a case wherein there is any deliberate delay on the part of the informant in lodging FIR. On the contrary, this Court has reason to accept the submissions made by learned Counsel for the informant that owing to the

political pressure, the complaints made by the informant were not recorded. No benefit of lodging of the report on 21.04.2023 can be given to the present Appellant.

7. *Prima facie* perusal of the record indicates that the Appellant had no transaction of any nature with the informant. Though informant is the brother-in-law of Ratan with whom said transaction is there. There is substance in the submissions of informants Counsel that the informant was being abducted for the recovery of the said amount. The contention of the informant gets support from the document on record which indicates that on 08.12.2022 a sum of Rs.10,000/- was transferred to the account of Appellant by the nephew of informant. This transaction is not explained by the Appellant. Such documentary evidence corroborates allegations in the FIR that on 08.12.2022 such amount was transferred and thereafter cash of Rs. 2 lacs paid to the Appellant and only then informant was released. There is specific allegation against the Appellant of commission of offences punishable under the Atrocities Act.

8. The aforesaid fact and *prima facie* material on record clearly shows involvement of the Appellant in in abduction of the informant as well as offences under the Atrocities Act. *Prima facie*, therefore, the bar of Section 18 of the Atrocities Act is applicable to the present case. In view of this, Appellant has failed to make out any case for grant of pre-arrest bail. In the result, appeal stands dismissed.

9. Fees of Ms. Pooja Ingale, 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