

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

2 CRIMINAL APPEAL NO.778 OF 2022

**KARAN WALMIK SONAVANE AND OTHERS
VERSUS
THE STATE OF MAHARASHTRA AND ANOTHER**

Mr.S.E. Shekade, Advocate for the appellants.
Mr.Y.G. Gujarati, APP for the respondent/State.
Mr.Govind A. Kulkarni, Advocate (appointed) for respondent No.2.

**CORAM : KISHORE C. SANT, J.
DATED : 02.02.2023**

PC :-

01. Heard learned Advocates for the parties. The appeal is filed seeking bail in the event of arrest in connection with Crime No.454 of 2022 registered with Pathri Police Station, Tal. Pathri, Dist. Parbhani for the offences punishable under section 294, 504, 506 r/w 34 of the Indian Penal Code and sections 3(1)(r) and 3(1)(s) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989. Their application for bail in the event of arrest is rejected by the learned Special Judge and Additional Sessions Judge, Parbhani by order dated 07.10.2022. Having gone through the FIR it is seen that the main allegations are against one Mahadeo, who is not before this

Court, but he is already granted anticipatory bail by the learned Special Judge by order dated 08.11.2022. So far as considering the role of the present appellants, it is seen that there are no allegations that they abused informant or any of his relatives in the name of caste. The allegations, which appear against these appellants are that they have used unsolicited language by looking at women from the family of the informant. It is submitted that these allegations by itself do not make out case attracting offence under sections 3(1)(r) and 3(1)(s) of the Atrocities Act.

02. The learned APP submits that there are specific allegations against these appellants. The allegations certainly shows that they have used derogatory language and words for the women in the family of the informant. The appellants do not deserve any bail.

03. The learned Advocate appointed for respondent No.2 vehemently opposed the appeal. During the course of arguments, he pointed out to this Court an order passed by the learned Special Judge, Parbhani dated 08.11.2022, wherein bail is granted in the event of arrest to the main accused – Mahadeo. He vehemently submitted that the order dated 08.11.2022 could

not have been passed granting bail merely by observing that the possibility of false implication cannot be ruled out. He submits that the Court has thus exceeded its jurisdiction by not considering sections 18 and 18-A of the Atrocities Act. It does appear that the learned Judge while passing order dated 08.11.2022 seems to have exceeded jurisdiction and has not taken into consideration the effect of sections 18 and 18-A of the Atrocities Act. However, same is not the subject matter of challenge before this Court and therefore this Court does not feel it necessary to consider that order. The learned Advocate further submits that even using derogatory language about women belonging to the Scheduled Caste also amounts to an offence. Therefore, he prays that the present appeal be dismissed.

04. Considering the submissions and the FIR, it is seen that though the appellants have used derogatory language about women from the family of the informant, however, it is seen that there is no abuse in the name of caste and thus it cannot be said with certainty that such abuses are only with a view to insult or humiliate said person in the name of caste. This Court, therefore, finds that case is made out to allow the appeal. Hence, following order:-

ORDER

- (i) The appeal is allowed.
- (ii) In the event of arrest, the appellants shall be released on bail in connection with Crime No.0454 of 2022 registered with Pathri Police Station, Tal. Pathri, Dist. Parbhani for the offences punishable under sections 294, 504, 506 r/w 34 of the Indian Penal Code and sections 3(1)(r) and 3(1)(s) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989, on furnishing PR bond of Rs.15,000/- (Rupees Fifteen Thousand) with one solvent surety in like amount each.
- (iii) The appellants shall not enter their village till filing of the charge-sheet.
- (iv) The appellant shall not tamper with the prosecution evidence.
- (v) The appellants shall attend the concerned police station as and when required by the Investigating Officer.
- (vi) Learned Advocate Mr. G.A. Kulkarni appointed through Legal Aid shall be entitled to receive Rs.10,000/- (Rupees Ten Thousand) towards fees.

[KISHORE C. SANT, J.]