



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPEAL NO. 834 OF 2023

Pandurang Bhagwat More

....Appellant

VERSUS

The State Of Maharashtra And Others

...Respondent

...

Mr. R. G. Hange, Advocate for Appellant

Mr. N. B. Patil, APP for Respondents

Ms. F. M. Kulkarni, Advocate for Respondent No. 3
(appointed).

...

CORAM : R.M. JOSHI, J

DATE : DECEMBER 20, 2023

PER COURT :

1. This Appeal is filed under Section 14(A) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act against the order dated 28.08.2023 passed in Criminal Bail Application No. 828/2023 whereby the application for anticipatory bail of the Appellant came to be rejected in connection with Crime No. 189/2023 registered with Beed Rural Police Station, Dist. Beed for the offences punishable under Sections 323, 324, 326, 427, 504, 506 read with Section 34 of IPC and Sections 3(1)(r), 3(1)(s), 3(2)(va) of the Atrocities Act.

2. First informant Pralhad reported to the police incident occurred on 25.06.2023. According to him, at about 04.30 pm he was assaulted by co-accused Sachin with iron pipe. There is allegation against Appellant and other co-accused of them instigating him to cause said assault. Except for this, there is no other allegation against Appellant barring that they abused informant generally.

3. Learned Counsel for the Appellant submits that first bail application was rejected thereafter Appeal was filed before this Court bearing no. 661/2023, which was withdrawn after this Court has shown disinclination to grant relief. It is his contention that there is change in circumstances in view of arrest of the co-accused and subsequent recovery of the weapon at his instance. It is further claimed that filing of the charge-sheet, therefore, is substantial change in circumstances. By referring the FIR as well as statements of witnesses it is submitted that there is no allegation against Appellant of causing any assault nor he said to have abused informant over his caste.

Thus, according to him, offence under the Atrocities Act does not gets attracted against him, as such, bar of Section 18 of the Act will not come into play.

4. Learned Counsel for the informant opposed the Appeal with submissions that there is no substantial change in the circumstance from the rejection of previous application for anticipatory bail. It is submitted that learned Additional Sessions Judge has rightly considered previous orders and rejected the application filed by the Appellant. She also claims that considering the allegations in the FIR, bar of Section 18 of Act gets attracted to this case.

5. Learned APP also opposed the Appeal by relying upon the statements of independent witnesses who has seen Appellant instigating co-accused to cause assault on the informant. He also relied upon the injury certificate indicating causing of grievous injury to the informant.

6. On the point of second bail application it is settled law that unless there is substantial change in

circumstance, second bail application is not tenable. In the instant case, first bail application was filed by all accused persons together. On rejection of said bail application, Appeal came to be filed bearing no. 661/2023, which was withdrawn after this Court has shown disinclination to grant relief. Thereafter, co-accused Sachin was arrested and from him recovery of weapon is done. It is thereafter investigation was concluded with filing of charge-sheet. Thus, this Court finds substantial change since disposal of previous appeal to entertain this Appeal.

7. It is pertinent to note that FIR itself does not make any allegation against present Appeallant of causing any assault on the informant nor it is alleged that he insulted informant over his caste. Allegation against present Appellant is of hurling general abuses not pertaining to his caste. Thus, this Court finds substance in the contention of learned Counsel for the Appellant that provisions of Atrocities Act may not get attracted to the present case. Resultantly, bar of Section 18 of the Act also will not come into play.

8. In view of above, appeal stands allowed by confirming interim order dated 27th September, 2023.

9. Fees of Ms. F. M. Kulkarni, learned Counsel appointed to represent Respondent No. 3, is quantified @ Rs. 6000/- (Rupees Six Thousand Only) to be paid by High Court Legal Service Sub-Committee, Aurangabad.

(R. M. JOSHI, J.)

Malani