

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

CRIMINAL APPEAL NO.1019 OF 2023

1. Anil S/o Jijaba Sangale,
 2. Jijaba S/o Vithoba Sangale
 3. Kamal @ Sakharbai W/o Jijaba Sangale
 4. Shobha @ Sojarbai W/o Anil Sangale
- ... APPELLANTS

VERSUS

1. The State of Maharashtra,
Through Investigation Officer,
Mirajgaon Police Station,
Tq. Karjat, Dist. Ahmednagar
 2. Rupali D/o Dada Bhawal
- ... RESPONDENTS

Mr. N. B. Narwade, Advocate for the appellants
Mr. S. B. Jadhav, APP for the respondent /State
Mr. N. N. Bhagwat, Advocate for respondent No.2 (appointed)

CORAM : R. M. JOSHI, J.
DATED : 28/11/2023

P.C. :-

1. When this Court has shown disinclination to grant relief to appellant No.1 Anil S/o Jijaba Sangale, learned counsel for the appellants, on instructions, seeks withdrawal of the appeal qua appellant No.1. Appeal stands dismissed qua appellant No.1.

2. Applicant Nos. 2, 3 and 4 apprehend arrest in connection with Crime No. 318/2023 registered with Mirajgaon Police Station, Tq. Karjat, Dist. Ahmednagar for the offences punishable under Sections 354, 324, 323, 504, 506 r/w 34 of Indian Penal Code and U/s 3 (1)(w)(i), 3(1)(w)

(ii), 3(1)(r), 3(1)(s), 3(2)(va) of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 (for short 'Atrocities Act').

3. The informant is a lady who alleged that the co-accused abused, assaulted and outraged her modesty. The allegations against the applicants are that they too abused her over her caste so also assaulted her.

4. Learned counsel for the appellants submits that the allegations made against the present appellants are omnibus in nature and that it is not possible to accept that in one go /in chorus all of them have abused the informant over her caste. As far as other allegations are concerned, it is submitted that this is a ideal case of exaggeration of occurrence of the incident and false implication of the appellants in this crime. It is also submitted that appellant Nos. 2 and 3 are aged about 75 and 70 years respectively whereas the appellant No.4 is a lady and in absence of specific allegations against them attracting the provisions of Atrocities Act, it is a fit case for protecting their liberty. As far as the bar under Section 18 of the Act is concerned, it is sought to be contended by the learned counsel for the appellants that since the incident in question has not occurred in the public view, even otherwise there is no impediment in entertaining the appeal for pre arrest bail.

5. Learned counsel for the informant and learned APP opposed the appeal by mainly relying upon the statements of the informant and witness coupled with the injury certificate. It is submitted that the allegations against the appellants are genuine and that there is no reason for their false implication. It is submitted that bar of Section 18 of the Act does get attracted to the present case.

6. Perusal of the first information report though indicates specific allegations against the co-accused, as far as present appellants are concerned, the allegation against them of abusing the informant over her caste is omnibus in nature. Having regard to the facts of the case, this Court finds substance in the contention of the learned counsel for the appellants that this could be a case of exaggerated version of the incident. There is further force in the contention of the learned counsel for the appellants that it is not probable that in one voice all the appellants abused the informant over her caste and thereby insulted her. Having regard to these facts, bar under Section 18 of the Act would not get attracted to the present case.

7. Having regard to the nature of the offence the custodial interrogation of the appellants No. 2, 3 and 4 are not necessary. Appellant No.2 is aged about 75 years whereas appellant No.3 (70 years) and 4 are women. Having regard to these facts the appeal deserves to

be allowed to their extent. Hence following order:

ORDER

(i) Appeal is allowed.

(ii) The appellants No. 2, 3 and 4 be released on bail in connection with Crime No. 318/2023 registered with Mirajgaon Police Station, Tq. Karjat, Dist. Ahmednagar for the offences punishable under Sections 354, 324, 323, 504, 506 r/w 34 of Indian Penal Code and U/s 3 (1)(w)(i), 3(1)(w) (ii), 3(1)(r), 3(1)(s), 3(2)(va) of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, on furnishing PR Bond of Rs.15,000/- (Rupees Fifteen Thousand only) with one surety in the like amount.

(iii) They shall attend the concerned police station once in a month till filing of the charge-sheet.

(iv) They shall not contact the witnesses directly or indirectly.

(v) They shall not interfere with the evidence in any manner whatsoever.

(vi) They are further directed to cooperate the investigating agency for further investigation.

(vii) Fees of the appointed counsel is quantified Rs. 6000/- and it is to be paid by the High Court Legal Services Authority, Sub Committee, Aurangabad.

(viii) Bail before Trial Court.

(R. M. JOSHI, J.)

ssp