

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPEAL NO. 441 OF 2023

Ashpak Babasaheb Mulani	...Appellant
Versus	
State Of Maharashtra And Anr.	...Respondents

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Mr. Rahul S. Kate Advocate for Appellant.

Mr. Rajesh Dharap Advocate for Respondent No.2.

Mr. Y. M. Nakhwa, APP for the Respondent – State.

Mr. A. M. Khandagale, Kalmala Police Station is present.

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CORAM : PRAKASH D. NAIK, J.

DATE : 19th JUNE, 2023.

P.C.:-

1. This is an appeal under Section 14-A of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989. The appellant is challenging the order dated 16th March 2023 passed by learned Additional Sessions Judge, Barshi rejecting the application for anticipatory bail preferred by the appellant. Offences were registered vide C.R. No.264 of 2022 with Karmala Police Station under Sections 323, 324, 504, 506 of Indian Penal Code and Sections 3(1)(r), 3(1)(s), 3(2)(va) and 6 of Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989. FIR was registered on 31st March 2022.

2. Case of the prosecution is that, on 30th March 2022, the Appellant had abused the complainant by referring to his caste and asked him to accompany him. The complainant set on his bike and proceeded to spot. They consumed liquor. The complainant was again insulted on his caste. On 31st March 2022, the Appellant and the other accused came to the spot and assaulted the complainant's sister and abused her on caste. When the mother of the complainant intervened, she was assaulted by wooden log.

3. Vide order dated 18th April 2023, interim protection was granted to the Appellant. This Court had passed detailed order and it was observed that, the alleged incident of abuses on caste had not occurred within public view.

4. Learned Advocate for the Appellant submitted that, the conditions imposed in the interim order are complied. There are no independent witnesses to corroborate the version of complainant. Injuries suffered by injured persons are simple in nature.

5. Learned APP submitted that, first informant has referred to abuses on caste as well as incident of assault. Three persons were injured. They had suffered simple injuries. Statements of witnesses were recorded. The independent persons are referring to the incident of assault but silent about casteist abuses.

6. Learned Advocate for Respondent No.2 reiterated the submission of learned APP. It is submitted that, the incident had occurred within public

view. The appellant is not entitled for anticipatory bail.

7. In the light of the observation made in order dated 18th April 2023 and considering the fact that, there are no independent witness to corroborate the version of complainant about abuses on caste, the offences under the I.P.C. are bailable in nature, Appeal deserves to be allowed.

ORDER

- (i) Criminal Appeal No. 441 of 2023 is allowed.
- (ii) Order dated 16th March 2023 passed by learned Additional Sessions Judge, Barshi in Criminal Bail Application No. 614 of 2022 is set aside.
- (iii) Interim order dated 18th April 2023 is confirmed.
- (iv) In the event of arrest of the appellant Ashpak Babasaheb Mulani in connection of C.R. No. 264 of 2022 registered with Karmala Police Station he shall be released on bail on furnishing PR bond to the extent of Rs.25,000/- with one or two sureties of the like amount.
- (v) The appellant shall not directly or indirectly make any inducement, threat or promise to any person acquainted with facts of case so as to dissuade him from disclosing the facts to Court or any Police Officer and should not tamper with evidence.
- (vi) Appeal stands disposed off.

(PRAKASH D. NAIK, J.)