

rajshree

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPEAL NO.1160 OF 2023
WITH
CRIMINAL APPEAL NO.1103 OF 2023

Ajay Dattatrey Patsute	]	..	Appellant
vs.			
Aakash Balaso Shitole & Ors.	]	..	Respondents

Mr.Ganesh Dumbre, for the Appellant.

Mr.S.R. Agarkar, APP for the State.

CORAM : BHARATI DANGRE, J

DATE : 25th October, 2023.

P.C.

1] The grievance in the two appeals which is projected is that the Additional Sessions Judge Karad, District Satara, has failed to give effect to the mandatory provision in form of Section 15A of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989, and has proceeded to decide the application for grant of bail without issuing notice to the complainant, which in terms of Section 15A of the Act of 1989, is mandatory.

2] Heard the learned counsel for the Appellant and the learned APP for the State.

When the impugned orders passed on the Applications filed under Section 439 of the CrP.C. are perused, it is evident that on the application moved for securing release on bail in connection with the offence which had invoked Section 143, 147, 323, 504, 506 read with 34 of the IPC and under Section 3(2)(r)(s), 3(2)(va) of the Act of 1989, as well as Section 7(1)(d) of the Protection of Civil Rights Act, 1955, the learned Judge considered the argument of the Accused and also perused the say filed by the APP to the effect that the investigation is already complete and the appropriate order to be passed.

Recording that the custodial interrogation is no more necessary, since the charge sheet is already filed and since the Appellant is resident of Shitalwadi, Taluka Karad, his presence can be secured in the trial, he was directed to be enlarged on bail.

3] It is pertinent to note that by amending the statute of 1989, in order to safeguard the rights of the victims and witnesses, the Parliament by amending the Act No.1 of 2016, inserted Chapter IVA in the Act of 1989, recognizing the rights of the victims and witnesses and imposing duty and responsibility, upon the State to make arrangement for protection of victim, their dependents and witnesses against any

kind of intimidation or coercion or inducement or violence or threat. The amended provision expect that the victim to be treated with fairness, respect and dignity and self respect of the victim.

As a facet of this, the victim or dependents is conferred with a right to have receive, accurate and timely notice of any court proceedings including bail proceedings and a duty is caste on the Special Public Prosecutor of the State Government to inform the victim about any proceedings under the Act.

4] In the present case, the Prosecutor as well as the Court dealing with the application has failed to take cognizance of this specific provision which is brought on the statute book and existing in form of Sub Section (3) of Section 15A.

At this stage, it was possible for me to grant hearing to the Applicant/complainant, but I deem it appropriate to remand the matter as the Public Prosecutor as well as the concerned Court should, on the next occasion, not miss such an important ingredient of the statute; being the right of the victim to be represented in any proceedings under the Act, including bail proceedings.

5] For the aforesaid reasons, though the relief granted under Section 439 of the Cr.P.C. shall continue in favour of the Appellant, for

a further period of 6 weeks, till the time, the Applications shall be reheard by the Special Court, after permitting participation of the complainant.

In order to cut short the period, so that the complainant is issued with notice, the learned counsel for the appellant, undertake to appear before the concerned Court on 31.10.2023.

The court shall then do away with the necessity of issuing notice, and thereafter, the learned Judge, after affording an opportunity of hearing, shall either confirm the order or may reject the application on merits.

With the aforesaid directions, Criminal Appeal No.1160/2023 and Criminal Appeal No.1103/2023 stand disposed off.

[BHARATI DANGRE, J]