

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
CRIMINAL APPELLATE JURISDICTION**

**CRIMINAL APPEAL NO.157 OF 2022**

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DINESH  
RANE

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..APPELLANT

VS.

THE STATE OF MAHARASHTRA & ANR.

..RESPONDENTS

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Adv. Ayush Pasbola a/w. Adv. A. V. Konde Deshmukh i/b. Adv.  
Prajyot Shrivastav for the appellant.

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

Adv. Salil Ray for the respondent no.2.

R. V. Nagtilak, Police Havaldar 1946, Paud Police Station,  
Pune Rural.

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**CORAM : M. S. KARNIK, J.**

**DATE : AUGUST 11, 2023.**

**P.C. :**

1. Heard learned counsel for the appellant, learned APP for the State and learned counsel for the respondent no.2.
2. This is an appeal challenging an order passed by the Special Judge under the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 (hereafter 'the Atrocities Act' for short) rejecting the application of the appellant for pre-arrest bail.
3. The appellant is apprehending arrest in connection with C.R.No.357/2021 registered with Paud Police Station,

Pune, for the offence punishable under Sections 427, 323, 504, 506 of the Indian Penal Code (hereafter 'IPC' for short) and under Sections 3(1)(f)(g)(r)(s), 3(2)(v) of the Atrocities Act.

4. Learned counsel for the appellant submitted that there is dispute over a small piece of land which is part of Survey No. 147. Relying on document at page 91 dated 18/6/2010 which is in nature of consent letter by some of the co-sharers of the subject land granting the appellant permission to carry out construction, learned counsel for the appellant submitted that the appellant proceeded to construct on a small portion of the land.

5. It is the grievance of the respondent no.2 in the First Information Report (FIR) that upon noticing that some construction was going on in the land which the respondent no.2 claims to be the owner in possession, the respondent no.2 confronted the appellant. It is alleged that on the date of filing of the FIR dated 28/12/2021, the appellant abused the respondent no.2 with reference to caste.

6. This Court protected the appellant by an interim order during the pendency of the present appeal. The charge-

sheet came to be filed during the pendency of the appeal and the statement of the appellant was recorded.

7. Heard.

8. I have perused the documents relied upon by learned counsel for the appellant which is in nature of the consent letter from those claiming to be in rightful occupation and ownership who permitted the appellant to construct the house on small portion of Survey No.147. From the documents on record in the nature of 7/12 extracts indicate the possession of the respondent no.2 and others in respect of Survey No.147. There appears to be a dispute over the property. Further, at the time when the abuse was made on caste, the father-in-law of the respondent no.2's son was present and his statement was recorded. He is, thus, an interested witness. There are no other witnesses to the incident in question. The incident happened at the construction site over the agricultural field.

9. The charge-sheet has already been filed and the appellant has co-operated with the investigation. In my opinion, taking an over all view of the matter, the bar under Section 18 of the Atrocities Act will not apply. The appeal is,

therefore, allowed.

10. The impugned order is set aside.

11. The interim order of this Court dated 18/2/2022 is confirmed.

12. A statement is made by learned counsel for the appellant, on instructions, that the premises are not being used by the appellant. This is disputed by learned counsel for the respondent no.2. In any case, learned counsel makes a statement that hereafter the premises will not be used by the appellant and shall use the subject premises only upon obtaining appropriate orders from the Competent Court. Statement accepted.

13. The appeal is disposed of accordingly.

**(M. S. KARNIK, J.)**