

rajshree

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY**  
**CRIMINAL APPELLATE JURISDICTION**  
**APPEAL NO.257 OF 2023**

|                             |   |    |             |
|-----------------------------|---|----|-------------|
| Madhav Sukdeo Deore & Ors.  | ] | .. | Appellants  |
| vs.                         |   |    |             |
| State of Maharashtra & Anr. | ] | .. | Respondents |

Mr.Jayendra Khairnar for the Appellant.

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

Mr.Rajesh Dharap, appointed Adv. for Respondent No.2.

Dy. SP P.D. Jadhav, Malegaon, Nashik Rural present.

**CORAM : BHARATI DANGRE, J**

**DATE : 29<sup>th</sup> March, 2023.**

**P.C.**

1] Heard the learned counsel for the Appellants, the learned APP for the State and the learned appointed counsel for the complainant.

2] The Appellants are aggrieved by the order passed by the Additional Sessions Judge, Malegaon dated 17.02.2023, when, their application seeking protection from arrest in connection with CR No.36/2023 came to be rejected.

The said CR invoke offence under Section 143, 504, 506 of the Indian Penal Code and under Section 3(1)(1), 3(1)(r) and 3(1)(s) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989.

3] The Application came to be rejected in the wake of the bar existing in the statute in form of Section 18 and 18A.

The learned Judge has recorded that, after going through the FIR, the offence has been made out against the Appellants and their application cannot be entertained.

4] On perusal of the entire order and on hearing the learned counsel for the Appellants as well as the Respondent, I am in agreement with the said observations only as regards Appellant No.4. However, as regards other Appellants are concerned, I do not think that reading of the complaint, it attribute castiest abuses being hurled to the complainant by them.

5] The complaint which is lodged by the complainant narrate the background by stating that a transaction was entered between the parties and pursuant to that, it was agreed that the property was to be sold for the valuable consideration and even some amount was also paid and they were assured that the property would be sold. In the meantime, the Grampanchayat directed the premises to be vacated and a Civil Suit came to be instituted in the year 2022 by one Sukdeo Deore, father of the Appellant No.1.

6] In this background, an incident dated 19.10.2022 is referred to when it is stated that all the accused persons came at his house at 6.00 p.m. and by standing outside, they started hurling abuses at him. In the complaint, it is specifically stated that Yogesh Deore uttered castiest abuses and threatened him that if the land in city survey in their possession is not vacated, he will have to face dire consequences. Thereafter, it is alleged that Manohar Deore also abused him and also

threatened him. It is stated that Prakash Deore had abused his wife, some four years back and threatened his son.

7] As per the law that has been well settled as regards Section 18 of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989, it require the concerned Court to read the FIR as it is and if no prima facie case is made out, then bar imposed under Section 18 of the is liable to be raised and application under Section 438 of the Cr.P.C. can be entertained.

In the present case, Section 3(1)(r) and 3(1)(s) of the of the Act of 1989 being invoked, accusation of abuses are only attributed to Accused No.4 Yogesh Deore.

The delay in lodging the FIR which is sought to be projected as an afterthought, is however, explained to the effect that the complainant had approached National Commission for Scheduled Castes and Scheduled Tribes, by addressing a communication. The learned APP has placed on record the letter addressed by the Director of National Commission for Scheduled Castes and Scheduled Tribes to the Superintendent of Police, Nashik, to initiate action and accordingly directions were issued to the SDPO Malegaon, pursuant to which offence came to be registered.

8] In the wake of above, I deem it appropriate to protect the Appellants, except Appellant No.4 Yogesh Deore, since prima facie case is made out against him, he is not entitled for the benefit of Section 438 of the Cr.P.C. and he definitely must undergo the investigation.

As far as other Appellants are concerned, they are entitled to be released on bail.

**ORDER**

(a) Appellants No.1-Madhav Deore, No.2 Mohan Deore, No.3 Prakash Deore, No.5 Manohar Deore and No.6 Rohit @ Rahul Deore, shall be released on bail in connection with C.R.No.36 of 2023 registered with Chavani Police Station, Malegaon, Nashik, on furnishing P.R. bond to the extent of Rs.25,000/- each with one or two sureties of the like amount.

(b) The appellants 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.

(c) The Appellants shall report Investigating Officer as and when called for.

Appeal is disposed off in the abovesaid terms.

**[BHARATI DANGRE, J]**