

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

CRIMINAL APPEAL NO. 425 OF 2019

Anil Manohar Babar

..Appellant

Versus

The State of Maharashtra & Anr.

..Respondents

Ms. Rui Danawala i/b. Umesh R. Mankapure for Appellant.

Smt. M. R. Tidke, APP for State/Respondent No.1.

Ms. Dhruti M. Kapadia (Appointed Advocate) for Respondent No.2.

CORAM : SARANG V. KOTWAL, J.

DATE : 2 FEBRUARY 2023

PC :

1. The Appellant has challenged the order dated 06/03/2019 passed by learned Additional Sessions Judge, Sangli, in Criminal Miscellaneous Application No. 263 of 2019. In effect, the appellant is seeking anticipatory bail in connection with C.R.No.112 of 2019 dated 26/02/2019 registered at Vita police station, under section 3(1)(2a)(A) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 (for short 'Atrocities Act').

2. Heard Ms. Rui Danawala, learned counsel for the Appellant, Smt. Tidke, learned APP for the State/Respondent No.1 and Ms. Dhruiti Kapadia, learned Appointed Advocate for the Respondent No.2.

3. The F.I.R. is lodged by the Respondent No.2. She has stated in her F.I.R. that, her family and the Appellant's family resided in Yashwant Nagar area, at Vita. Both of them knew each other very well. The Appellant knew that the Respondent No.2 belonged to a scheduled caste. According to her, around three years before the F.I.R., the Municipality of Vita had provided a common water tap in front of the house of the Appellant. She has further mentioned that, if the water was not available to the water tap near the house of the Respondent No.2, they used to go to fetch water from the water tap in front of the house of the Appellant. From 17/02/2019 to 19/02/2019 there was no water to the water tap near the house of the Respondent No.2. Therefore, on 19/02/2019 at about 8.30a.m. the Respondent No.2 along with her daughter and sister in law went to get the water from the tap in front of the house of the Appellant. At that time,

the Appellant prevented them from taking the water. On this basis the F.I.R. was lodged.

4. Learned counsel for the Appellant submitted that, it was the appellant's private water connection and, therefore, no offence under the Atrocities Act is made out.

5. Learned counsel for the Respondent No.2 submitted that the F.I.R. shows that it was a common water tap and preventing the Respondent No.2 from taking water would attract the provisions of aforementioned section under the Atrocities Act, because the Appellant was aware that the Respondent No.2 belonged to a scheduled caste.

6. Learned APP produced the investigation papers before me.

7. I have considered these submissions. The only issue involved in this case would be whether the water tap in question was a private water connection belonging to the Appellant or whether it was a common water connection. In that behalf, the investigation papers included a certificate issued by the Municipal

Council of Vita dated 01/03/2019. In that certificate, it is categorically mentioned that the Appellant was given two water tap connections. More importantly, that certificate also mentions that there was no common water connection in that area. Thus, based on this certificate, it can be seen that ingredients of Section 3(1)(2a)(A) of the Atrocities Act are not satisfied. It was a private water connection belonging to the Appellant. In this view of the matter, the bar U/s.18 of the Atrocities Act will not operate. The incident is old. About four years have passed since then. In view of this, the Appellant can be granted protection of anticipatory bail order.

8. Hence, the following order:

ORDER

- i) In the event of his arrest in connection with C.R.No.112 of 2019 registered at Vita police station, the Appellant is directed to be released on bail on his furnishing P. R. bond in the sum of Rs.30000/- with one or two sureties in the like

amount.

ii) The Appeal is disposed of.

(SARANG V. KOTWAL, J.)