

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

CRIMINAL APPEAL NO. 403 OF 2023

Shankar Baban Kale ...Appellant
Versus
The State of Maharashtra & Anr. ...Respondents

Ms. Rekha Musale a/w Ms. Sushama Patil for the Appellant

Mr. V. B. Konde-Deshmukh, A.P.P for the Respondent No.1-State

Ms. Ameeta Kuttikrishnan, Appointed Advocate for the Respondent
No. 2

ASI Mr. Suresh E. Salwe from Baramati Taluka Police Station, is
present

**CORAM : REVATI MOHITE DERE &
SHARMILA U. DESHMUKH, JJ.
TUESDAY, 25th APRIL 2023**

P.C :

1 Heard learned counsel for the appellant.

2 By this appeal preferred under Section 14A of the
Scheduled Caste and Scheduled Tribes (Prevention of Atrocities) Act

(`SCST Act'), the appellant seeks pre-arrest bail in connection with C.R. No. 300/2022 registered with the Baramati Police Station, Pune, for the alleged offences punishable under Sections 376(d), 354(c), 328, 323, 504, 506 r/w 34 of the Indian Penal Code (`IPC') r/w Sections 3(2), 3(2)(va), 3(1)(w)(i), 3(1)(w)(ii), 3(1)(r), 3(1)(s) of the Scheduled Caste and Scheduled Tribes (Prevention of Atrocities) Act and under Section 7(1)(d) of the Protection of Civil Rights Act.

3 Learned counsel for the appellant submits that the role of the appellant is similar to that of his wife Suvarna Kale and Mahesh Shinde, who have been granted pre-arrest bail by this Court vide order dated 17th November 2022 and 25th April 2023. She submits that the allegations as against the appellant only pertain to allegedly abusing the respondent No. 2 i.e. the castiest abuses. She submits that although it is alleged that the said abuses were hurled in a public place, the same were not in a public view, so as to warrant application of the provisions of the SCST Act. She submits that there are no independent witnesses who were present at the

spot to corroborate the said allegations made by the respondent No.

2.

4 Learned A.P.P states that although the castiest abuses were allegedly hurled in public place, they were not in public view and that there are no independent witnesses to corroborate the allegations made by the complainant i.e. the respondent No. 2.

5 Perused the papers. The role of the appellant is similar to that of co-accused Mahesh Shinde and Suvarna Kale, whose appeals seeking pre-arrest bail, were allowed by this Court. Admittedly, the allegations as far as the appellant are concerned, only pertain under the SCST Act. There are no independent witnesses to corroborate the allegations made by the complainant i.e. the respondent No.2. This being the only allegation as against the appellant, the bar of Section 18A of the SCST Act, would not apply.

6 Considering the aforesaid, the bar of Section 18A of the SCST Act, would not apply and as such, the appellant is also entitled for protection from arrest. Hence, following order is passed :

ORDER

- (i) The appeal is allowed;

- (ii) The order dated 12th December 2022 passed by the learned Additional Sessions Judge, Baramati in Criminal Bail Application No. 1466 of 2022 is quashed and set-aside;

- (iii) In the event of the arrest, the appellant be enlarged on bail on furnishing P.R. Bond in the sum of Rs.15,000/-, with one or two local sureties in the like amount;

- (iv) The appellant shall report to the Investigating Officer of the concerned Police Station, as and when called, till the filing of the charge-sheet;

(v) The appellant shall not contact the complainant, witnesses or any person concerned with the case, till the said case is concluded.

7 The appeal is disposed of on the above terms.

8 All concerned to act on the authenticated copy of this order.

SHARMILA U. DESHMUKH, J. REVATI MOHITE DERE, J.