

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

DARSHAN
PRAKASH
PATIL

Digitally signed
by DARSHAN
PRAKASH PATIL
Date: 2023.08.11
19:45:34 +0530

APPEAL NO. 511 OF 2023

ACHYUT YASHWANT MEHENDALE ..APPELLANT
VS.
THE STATE OF MAHARASHTRA & ANR. ..RESPONDENTS

Adv. Shivraj Kunchge a/w Adv. Parmeshwar Bhise and Adv.
Ashish Dalvi for the Appellant.
Mr. Dayanand C. Awari for Respondent No.3.
Mr. Y. M. Nakhwa, APP for the State.

CORAM : M. S. KARNIK, J.

DATE : AUGUST 11, 2023.

P.C. :

1. Heard learned counsel for the appellant, learned counsel for respondent No.3 and learned APP for the State.
2. The appellant here apprehending arrest in First Information Report (FIR) No. 274 of 2022 registered with Dattawadi Police Station, District-Pune, for offences punishable under Sections 420, 504, 506(2) of the Indian Penal Code (IPC) and Sections 3(1)(r), 3(1)(s), 3(1)(u) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 (for short "Atrocities Act"). The Special Judge rejected the application for pre-arrest bail of the

appellant under the Atrocities Act.

3. The date of the incident on which the abuse with reference to the caste is alleged is 20/08/2022. The FIR is lodged on 23/11/2022. Learned counsel for respondent No.3 and the learned APP opposed the application and argued in support of the impugned order.

4. There is a delay in lodging the FIR. The reading of the FIR indicates that there was a commercial/business transaction between the brother (Accused No.1) of the present appellant (Accused No.2). There was some dispute between Accused No.1 and the complainant. It is alleged that the appellant's brother along with the appellant and others visited the office of respondent No.3 and threatened him and abused him with reference to his caste. Though there are two witnesses cited by the prosecution, one of the witness is a friend of respondent No.3 and hence is an interested witness. The allegations are mainly against the appellant's brother which is an outcome of the commercial transactions between them. The incident is alleged to have happened in the office of the respondent No.3. The

possibility of a false implication cannot be ruled out.

5. In my opinion, the bar under Section 18 of the Atrocities Act will not apply in the present case.

6. In this view of the matter, the appeal is allowed. The impugned order is set aside.

7. The interim order passed by this Court on 16/06/2022 is hereby confirmed.

8. The appeal is disposed of in the above terms.

(M. S. KARNIK, J.)