

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

CRIMINAL APPEAL NO. 479 OF 2023

1. Sonusingh Bhau Singh Solanke
2. Ashabai Sonusingh Solanke
3. Swapnil @ Mayur Sonusingh Solanke ...Appellants

Versus

1. The State of Maharashtra
2. Smt. Bhagyashree Sunil Ahire ...Respondents

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Mr. Wasif M.F. Akil, Advocate for the Appellants.

Ms. Priyanka A. Chavan, Advocate for Respondent No.2.

Mrs. Anamika Malhotra, APP for the Respondent No.1 – State.

Mr. R.B. Thoke, Satana Police Station, Dist. Nashik, Present.

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CORAM : PRAKASH D. NAIK, J.
DATE : 21st JULY, 2023

PER COURT:

1. This is an appeal under Section 14 of the Scheduled Caste and Scheduled Tribes (Prevention of Atrocities) Act, 1989 (for short “SC/ST (Prevention of Atrocities) Act”). The appellants are apprehending arrest in connection with C.R. No.157 of 2023 registered with Satana Police Station, Dist. Nashik (Rural) for offences punishable under Sections 323, 324, 504 r/w Section 34 of Indian Penal Code (for short “IPC”) and Sections 3(1)(r), 3(1)(s), 3(2)(va) of the SC/ST (Prevention of Atrocities) Act.

2. The case of the prosecution is that there is dispute on account of construction of house between complainant and appellants. On 29.01.2023 there was incident of quarrel between both the sides and the appellant No.1 had allegedly abused the complainant and his family members on the basis of their caste.

3. Learned counsel for the appellant submitted that the FIR does not attribute the role of having abused the complainant on the basis of his caste. The appellant Nos.2 and 3 are wife and son of appellant No.1. The First Information Report (for short 'FIR') was registered at the instance of appellant No.1 registered with Satana Police Station, Dist. Nashik on 23.03.2023 for offences punishable under Sections 354, 354-B, 143, 147, 148, 149, 324, 323, 504, 506 & 427 of IPC. The investigation in that regard is in progress. The incident had occurred within public view and public place. The appellant Nos.2 & 3 are falsely implicated in this case.

4. Learned A.P.P. submitted that the appellant Nos.2 & 3 were present at the scene of offence. The complainant had alleged that, they were assaulted by the accused. The injury certificate is on record.

5. Learned counsel for Respondent No.2 submitted that, prima facie offences are made out against the accused. In view of bar

under Section 18 of the Atrocities Act they are not entitled for anticipatory bail.

6. From the tenor of FIR it is apparent that, overt act of abusing the complainant on the basis of his caste is not attributed to appellant Nos.2 & 3. The offences under the IPC are bailable in nature. No major role has been attributed to appellant Nos.2 & 3. Considering these circumstances, relief can be granted to appellant Nos.2 & 3.

ORDER

- i. Criminal Appeal No.479 of 2023 qua the appellant No.1 is allowed to be withdrawn.
- ii. Criminal Appeal No.479 of 2023 preferred at the instance of appellant Nos.2 & 3 is allowed.
- iii. The impugned order dated 05.04.2023 passed by the learned Additional Sessions Judge, Malegaon rejecting the application for anticipatory bail qua appellant Nos.2 and 3 is set aside.
- iv. In the event of arrest of the Appellant Nos.2 & 3 in connection with C.R. No.157 of 2023 registered with Satana Police Station, Dist. Nashik (Rural), the Appellant Nos.2 & 3 be released on bail on furnishing P. R. Bond in the sum of Rs.20,000/- each with one or more sureties in the like amount;

- v. The Appellant Nos.2 & 3 shall report the investigating officer on 27th & 28th July, 2023 between 11.00 a.m. to 1.00 noon and thereafter as and when called for.
- vi. The Appellant Nos.2 & 3 shall not pressurize the complainant and any other witnesses.
- vii. Appeal stands disposed of accordingly.

(PRAKASH D. NAIK, J.)