

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

CRIMINAL APPEAL NO. 571 OF 2023

Yogesh Dnyandeo Nimbalkar ...Appellant
Versus
The State of Maharashtra & Anr. ...Respondents

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Mr. Tanmay Jadhav h/f Mr. Ghanshyam Jadhav, Advocate for the Appellant.

Mr. Akash R. Pandey for Respondent No.2.

Ms. Pallavi N. Dabholkar, APP for the Respondent – State.

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CORAM : PRAKASH D. NAIK, J.
DATE : 13th JUNE, 2023.

PER COURT:

1. This is an Appeal under Section 14A of the Scheduled Caste and Scheduled Tribes (Prevention of Atrocities) Act, 1989 (for short “SC/ST (Prevention of Atrocities) Act”). The Appellants is aggrieved by the order dated 26.04.2023 passed by the learned Additional Sessions Judge, Baramati, rejecting the application for anticipatory bail preferred by the Appellant.

2. The Appellant is apprehending arrest in connection with C.R. No.206 of 2023 registered with Baramati Police Station, Dist. Pune for offences punishable under Sections 504 & 506 of Indian Penal Code (for short “IPC”) and Sections 3(1)(r) & 3(1)(s) of the SC/ST (Prevention of Atrocities) Act.

3. The complainant has alleged that, on 14.04.2023, the Appellant has abused the complainant on the basis of his caste. The First Information Report (for short 'FIR') was registered on 15.04.2023 at 22.24 hours.

4. Learned Advocate for the Appellant submitted that the Appellant has been falsely implicated in this case. On the contrary the Appellant was assaulted and he had lodged the FIR on 15.04.2023 at about 00.35 hours for offences under Sections 143, 147, 149, 354, 323, 504 & 506 of IPC. The Appellant had suffered injuries which is evident from the certificate issued by the Government Medical College & Hospital, Baramati. In the FIR it is stated that, he has been threatened that he would be implicated in the case under the Atrocities Act. Hence, the FIR has been registered out of mala fides. The Bar under Section 18 of the Atrocities Act would not be applicable.

5. Learned A.P.P. submitted that the offence is clearly made out in the FIR. The incident is witnessed by several persons. Statements of witnesses were recorded. There are independent witnesses to the incident.

6. The Respondent No.2 has tendered affidavit-in-reply which is taken on record. Learned Advocate for Respondent No.2 submitted

that, in the light of averments made in the FIR, hurling abuses on caste, the Appellant is not entitled for anticipatory bail in the light of bar under Section 18 of the Atrocities Act.

7. From the tenor of the FIR it can be gathered that the alleged incident had occurred on 14.04.2023 at about 7.15 p.m. The FIR has been registered on 15.04.2023 at about 22.24 p.m. Prior to the registration of said FIR, the Appellant had lodged the complaint with the Police on 15.04.2023 for the aforesaid offences. It is also evident from the record that the appellant had suffered injuries as borne out in the medical certificate annexed in this Appeal. In the FIR lodged at the instance of the Appellant it was stated by him that the opponent had threatened him that, complaint would be lodged under the Atrocities Act. After a period of about 22 hours, the present FIR has been registered against the Appellant. Registration of FIR smacks *mala fides*.

8. Considering the factual aspects, the Bar under Section 18 of the Atrocities Act would not be an impediment to grant relief to the Appellants.

ORDER

- i. Criminal Appeal No. 571 of 2023 is allowed;

- ii. The order dated 26.04.2023 passed by the learned Additional Sessions Judge, Baramati in Criminal Bail Application No.500 of 2023 is quashed and set-aside.
- iii. In the event of arrest of the Appellants in connection with C.R. No.206 of 2023 registered with Baramati Police Station, Dist. Pune, the Appellants be released on bail on furnishing P. R. Bond in the sum of Rs.25,000/- each with one or more sureties in the like amount;
- iv. The Appellants shall attend the investigating officer on 26th, 27th & 28th June, 2023 between 11.00 a.m. to 1.00 noon and thereafter as and when called for.
- v. Appeal stands disposed of accordingly.

(PRAKASH D. NAIK, J.)