

Fowaz Bashir Memon ... Appellant
Versus
The State of Maharashtra and Anr. ... Respondents

Mr. Suryakant Bangar, Assistant Police Commissioner, Oshiwara Division, Mumbai.

***CORAM: REVATI MOHITE DERE &
GAURI GODSE, JJ.***

DATE : 10th AUGUST 2023

P.C. :

1. Heard learned counsel for the parties.
2. By this appeal, preferred under section 14A of the Scheduled Castes and Schedules Tribes (Prevention of Atrocities) Act, 1989, the appellant seeks pre-arrest bail in connection with C.R. No.

252 of 2023, registered with the Oshiwara Police Station, Mumbai, for the alleged offences punishable under Sections 323, 504, 447, 506 of the Indian Penal Code, and Sections 3(1)(r), 3(1)(s) and 3(2)(va) of the Scheduled Castes and Schedules Tribes (Prevention of Atrocities) Act, 1989 ('SCST Act').

3. Perused the papers. Vide order dated 19th May 2023, this Court (Coram: Sharmila U. Deshmukh & Arif S. Doctor, JJ.), had granted interim protection to the appellant, after observing in para 7 of the said order that *prima facie*, the allegations of abuse made in a chorus, would not attract the provisions of SC ST Act and also having regard to the fact that there was delay of almost 14 days in lodging the FIR.

4. Learned counsel for the respondent No.2 has today tendered an affidavit-cum-no objection of the respondent No.2 – Anita Vijay Dubli dated 20th July 2023. In the said affidavit, respondent No.2 has stated that out of some misunderstanding, she had filed the

complaint and that the said dispute has been amicably resolved between them.

5. Be that as it may, having regard to the fact that the complaint was lodged after almost 14 days of the incident and that the allegation is that all the accused in chorus abused the complainant, *prima facie*, we are of the opinion that no offence as alleged under the SCST Act is made out.

6. Considering the aforesaid, the appeal is accordingly allowed and the interim protection granted by this Court vide order dated 19th May 2023, stands confirmed, on the following terms and conditions:-

ORDER

- (i) In the event of arrest, the appellant be enlarged on bail on furnishing P.R. Bond in the sum of Rs.25,000/-, with one or two sureties in the like amount;

(ii) The appellant shall not tamper with the evidence or attempt to influence or contact the complainant, witnesses or any person concerned with the case;

(iii) The appellant shall cooperate with the investigation.

7. The Appeal is allowed in the aforesaid terms and is accordingly disposed of.

8. It is made clear, that the observations made herein are *prima facie* and are confined to this appeal.

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

GAURI GODSE, J.

REVATI MOHITE DERE, J.