

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPEAL NO.645 of 2022

Illiya Ismail Saiyyed .. Appellant
Versus
The State of Maharashtra .. Respondent

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Mr. Shailesh Kharat i/b Milan Hebballi for the appellant.
Mrs. A.A. Takalkar, APP for the State.
Ms. Anandini Fernandes, legal aid Appointed Advocate for respondent no.2.

CORAM: BHARATI DANGRE, J.
DATED : 16th MARCH 2023

P.C:-

1 Heard learned counsel for the appellant, learned counsel for respondent no.2 and the learned APP for the State.

2 The present Appeal is filed u/s.14-A of the Scheduled Caste and Scheduled Tribes (Prevention of Atrocities) Act, 1989 seeking protection from arrest in connection in C.R.No.I-173/2018, which invoke Sections 143, 147, 148, 149, 120-B, 504, 506 and 427 IPC and Section 3(1)(r)(s) of the said Act.

3 When the complaint dated 25/9/2018 is perused, it can be seen that the complainant has alleged that on the date of

the incident, she could hear some commotion, while they were having dinner and therefore, her daughter-in-law came out of the house and the complainant followed her.

They could notice 11 persons named in the complaint, creating a ruckus by pushing the motorcycles and it is alleged that they were armed with rods, wooden sticks and swords. When her daughter-in-law shut the door of the house, it is alleged that they uttered certain words, referring to their caste and also threatened that they would not be kept alive.

In the whole process, the photographs of Dr.Babasaheb Ambedkar affixed on the wall, fell down.

4 When the complaint is minutely read, it become apparent that no distinct role is assigned to the present appellant and as the complainant has failed to state, as who uttered the particular casteist utterances, which would amount to an intentional insult with an intention to humiliate the complainant or her family members.

5 Learned counsel for respondent no.2, who is appointed through legal aid, has also invited my attention to the statement of the complainant recorded u/s.164 of Cr.P.C, where she has reiterated the said version.

6 It is also informed that on culmination of the investigation, the charge-sheet is filed.

7 In any case, since no specific accusation is levelled against the present appellant that it is he who has hurled casteist abuses against the complainant and her daughter-in-law, which would justify invocation of Section 31(1)(r) and (s) against him, I deem it appropriate that the appellant deserve his release on bail.

ORDER

- (a) In the event of arrest, the Appellant - Illiyas Ismail Saiyyed in connection with C.R.No.I-173/2018 registered with Manmad Police Station shall be released on bail on furnishing P.R. bond to the extent of Rs.25,000/- with one or two sureties of the like amount.
- (b) The applicant shall not directly or indirectly make any inducement, threat or promise to any person acquainted with facts of case so as to dissuade him from disclosing the facts to Court or any Police Officer. The Appellant should not tamper with evidence.
- (c) The Appellant shall attend the trial on regular basis.
- (d) On being released on bail, the appellant shall furnish his contact number and residential address to the Investigating Officer and shall keep him updated, if there is any change.

8 Before parting, I would also like to place on record appreciation for Ms.Anandini Fernandes, who was appointed by the legal services authority to represent the complainant and who has rendered assistance effectively. The Legal Services Authority shall make payment of remuneration, due and payable to her, within a period of four weeks from today.

(SMT. BHARATI DANGRE, J.)