

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

CRIMINAL APPEAL NO. 713 OF 2022

Somnath Ramchandra Divekar And Anr. ...Appellants

Versus

State Of Maharashtra And Anr. ...Respondents

....

Mrs. Manisha Devkar, Advocate for the Appellant.

Ms. Prachi Tatake, Advocate for Respondent No.2.

Mrs. Anamika Malhotra, APP for the Respondent – State.

Mr. Devkar, Police Constable, Yawat Police Station.

CORAM : PRAKASH D. NAIK, J.

DATE : 25th JULY, 2023.

PER COURT:

1. This is an appeal under Section 14-A of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 challenging the order dated 11th May, 2022 passed by learned Additional Sessions Judge, Baramati rejecting application for anticipatory bail.

2. The Appellant is apprehending arrest in C.R. No.320 of 2022 registered with Yawat Police Station for offences under Section 341, 504, 506 of Indian Penal Code (for short 'IPC'). Section 3(1)(r), 3(1)(s), 3(2)(Va) of Atrocities Act. Section 7(1)(d) of Protection of Civil Rights Act.

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3. The case of the prosecution is that on 11th April, 2022 the Accused No.1 brought poclain machine for agricultural work. He brought it through road passing towards Sanas Vasti which has caused damage to the road. The residents therein protested and told him not to use the road. However, he did not listen and took the machine ahead. Subsequently, at about 7:30 p.m. the Accused Nos. 1 and 2 were standing at Khedgaon Choufula. The Accused No.1 obstructed the vehicle of complainant and abused him on caste. He was threatened of dire consequences. He was abused. He was threatened that he should leave the village.

4. After hearing both the sides the Court had indicated that the Appellant No.1 is not entitled for relief. On instructions learned Counsel for the Appellant has sought permission to withdraw the appeal qua Appellant No.1.

5. Learned counsel for the Appellant submitted that Appellant No.2 is the mother of Appellant No.1. No role of caste abuses has been attributed to her. The alleged abuses on caste were attributed to Appellant No.1. Bar under Section 18 of the Atrocities Act would not be applicable.

6. Learned APP and learned Advocate for Respondent No.2 submitted that both the Accused were involved in abusing and

threatening complainant. Statement of independent witness Mr. Bharat Kharade was recorded and he had corroborated the version of complainant about abuses on caste.

7. On perusal of FIR and the statement of independent witness it is apparent that no role of abuses on caste has been attributed to Appellant No.2. In this circumstances, the bar under Section 18 of Atrocities Act would not be attracted qua Appellant No.2. She is entitled for protection.

ORDER

- i. Appeal preferred by Appellant No.1 is allowed to be withdrawn.
- ii. Appeal preferred by Appellant No.2 is allowed;
- iii. Order dated 11th May, 2022 passed by learned Additional Sessions Judge, Baramati qua Appellant No.2 is set aside.
- v. In the event of arrest of the Appellant No.2 in connection with C.R. No. 320 of 2022 registered with Yawat Police Station, the Appellant No.2 be released on bail on executing P. R. Bond in the sum of Rs.20,000/- with one or more sureties in the like amount;

vi. The Appellant No.2 shall co-operate with the investigation.

vi. Criminal Appeal No.713 of 2022 stands disposed off.

(PRAKASH D. NAIK, J.)