

Dhananjay Vilas Powar and Anr .. Appellants

Versus

The State of Maharashtra & Anr .. Respondents

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Ms.Suvarna Yadav for the appellants.
Mr.S.R.Agarkar, APP for the State.
Mr.Kedar J. Patil with Pratik Tare, Sakshi Kadam, Gargi Joshi and
Jitesh Mundwa for respondent no.2.

CORAM: BHARATI DANGRE, J.
DATED : 10th MARCH 2023

P.C:-

1 On expressing my disinclination to entertain the application, in the wake of the decision of the Apex court in case of *Swaran Singh Vs. State, 2008(8) SCC 435*, where the law as regards be created u/s.18 of the Scheduled Tribes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 (for short 'SCST Act') has been elaborated by stating that only in exceptional cases, when no *prima facie* case is made out, the power deserve to be exercised.

On perusal of the FIR, I do not feel that the present case fall within its exception that has been created while exercising

power u/s.438 Cr.P.C, despite a specific embargo created u/s.18 of the SCST Act. In the circumstances, the learned counsel for the applicant state that she shall surrender before the Special Court on 20/3/2023 and move an application for being released on bail.

2 Till that date, interim protection in favour of the applicant, shall continue to remain in force and the Special Court, if is unable to decide the Bail Application, shall pass appropriate orders, which will include extension of the protection till the Bail Application is decided.

(SMT. BHARATI DANGRE, J.)