

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPEAL NO.998 OF 2023

Navnath Dnyanoba Darekar .. Appellant
Versus
The State of Maharashtra & Anr. .. Respondents
...

Mr.Ghansham Jadhav for the appellant.
Mr.Y.M. Nakhwa, APP for the State.
Ms. Snehal Sandip Charapale, P.S.I. Shirur Police Station.

CORAM: BHARATI DANGRE, J.
DATED : 12th SEPTEMBER, 2023

P.C:-

1 The appellant seek protection from arrest in connection with CR No. 622 of 2017 which has invoked the offences under the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 along with the offence punishable under Section 143, 147, 149, 323, 504, 506 of IPC.

When the applicant apprehended his arrest, in the subject CR he approached the Special Court, Pune and on 22/02/2018, his application came to be rejected by recording that the complaint contain a mention of the name of the appellant and it is he who insulted the informant in the name of the caste in public view. In the wake of the specific bar under Section 18 and since prima facie case was made out by reading of the complaint, the application was rejected.

2 The appellant did not challenge the order, which has attained finality.

3 The appellant however moved a second bail application once again under Section 438 of Cr.P.C on 11/07/2023, on the ground that the co-accused Gorakhshnath Thorat is granted protection from arrest and even his application is rejected on 21/08/2023.

 Since the Special Judge distinguished the case of Gorakhshnath Thorat and once again the role attributed to the present appellant in the complaint is reiterated and since it was specifically recorded that the complaint, prima facie make out an offence under the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 and hence it met with the same fate.

4 Pertinent to note that the order passed on 22/02/2018 has attained finality as it is not challenged and by cogent reasons, even the second application claiming parity is dismissed.

 When particularly asked as to why the appellant was not arrested after he was refused any protection from arrest on 22/02/2018, no satisfactory explanation come either from the Investigating Officer or at the end of the appellant.

 However, considering the fact that the complaint prima facie make out an offence under the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989, by upholding the orders passed by the Special Court on two occasions, the appeal is dismissed.

(SMT. BHARATI DANGRE, J.)