

3. The case of the prosecution is that the complainant belongs to Scheduled Caste. He is the tenant in the premises owned by the Appellant. On 10th September, 2022 the Appellant and his son had demanded the rent and threatened him that he will have to vacate the premises for non-payment of arrears of rent. At about 11:25 a.m. the Appellant and his son had entered in the premises occupied by complainant and quarreled with his family members and started throwing his articles outside the room. The complainant told him that he would clear the dues toward the rent. However, the Appellant abused him on the basis of his caste. The other Accused (Son of Appellant) had assaulted sister of complainant. When the complainant got down from the premises for approaching the Police he was assaulted by the Appellant. The Co-accused assaulted him with stone and stick. The FIR was lodged at about 6:52 p.m. on 10th September, 2022.

4. The application for anticipatory bail preferred by the Appellant was rejected by the Sessions Court vide order dated 7th October, 2022.

5. Learned counsel for the Appellant pointed out that prior to the registration of FIR, the Appellant had approached the same Police Station with a grievance that the complainant and others had

abused and assaulted him. Non-cognizable complaint was registered with regards to the incident dated 10th September, 2022 occurred at 11:30 a.m. The FIR was registered subsequently. It is also submitted that there are no independent witnesses to support the version of the complainant. The alleged abuses on the basis of caste were hurled inside the premises. The incident had not occurred at public place and within public view. The role of assault by stone as well as stick was attributed to the Co-accused who has been granted anticipatory bail. The registration of FIR is counter blast to the complaint lodged by the Appellant with the same Police Station.

6. Learned APP submitted that the first informant referred to the casteist remarks made by the Appellant. The complainant and his relative were assaulted. During the investigation, statements of four witnesses who corroborate the version of complainant are recorded. The said witnesses have referred to the caste is remarks made by the Appellant.

7. Learned Advocate for Respondent No.2 submitted that the learned Sessions Judge has rightly rejected the application for anticipatory bail. *Prima facie* offence is made out in the FIR. The Appellant is likely to tamper with the evidence. The complainant

has filed reply opposing the relief sought in this Appeal.

8. Perused the investigation papers and documents annexed to this Appeal. The complainant is a tenant in the premises owned by the Appellant. There was dispute about payment of arrears towards the rent. Prior to the registration of FIR the Appellant had lodged the complaint with Police Station with regards to the incident of abuses and assault which had occurred at the same time when the alleged incident referred by the complainant had occurred. The co-accused was granted anticipatory bail by the Sessions Court. The incident of abuses on caste had occurred within the residential premises. On perusal of the statements of witnesses recorded by the Investigating Officer it is apparent that they are relatives of the complainant. The contents of this FIR and circumstances brought on record indicate that there are *mala fides* in registering the FIR. Version of complainant about caste abuses is not supported by independent witnesses. The incident cannot be said to have occurred at public place and within public view. In this circumstances, the bar under Section 18 of the Atrocities Act would not be an impediment to grant relief sought in this appeal.

ORDER

- i. Criminal Appeal 1042 of 2022 is allowed;

- ii. Impugned order dated 7th October, 2022 passed by learned Additional Sessions Judge, Special Court, Thane is set aside.
- iii. In the event of arrest of the Appellant in connection with C.R. No. 335 of 2022 registered with Nerul Police Station, the Appellant be released on bail on executing P. R. Bond in the sum of Rs.30,000/- with one or more sureties in the like amount;
- iv. The Appellant shall appear before the Investigating Officer on 26th, 27th and 28th July, 2023 between 11:00 to 1:00 and thereafter as and called for.
- v. Appeal stands disposed off.

(PRAKASH D. NAIK, J.)