

rajshree

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
INTERIM APPLICATION NO.3984 OF 2023
IN
CRIMINAL APPEAL NO.156 OF 2022

Rajshekhar Nagnath Tonpe	]	..	Applicant
vs.			
State of Maharashtra & Anr.	]	..	Respondents

Mr.Sushant N. Mhatre, for the Applicant.

Mr.Y.M. Nakhwa, APP for the State.

CORAM : BHARATI DANGRE, J

DATE : 8th November, 2023.

P.C.

1] Interim Application is taken out by the Applicant/ original Complainant who is Respondent No.2 in the Cr. Appeal No.156/2022 praying for vacation and/or cancellation of the protection granted to the original accused no.1 on 18.02.2022 and its confirmation on 19.09.2022.

2] Heard the learned counsel for the Applicant who has invited my attention to the alleged mischief played by the accused as he would

submit that the complainant while lodging complaint against the accused has given his address as resident of Village Khutbav, Belke Wasti, Taluka-Daund, District- Pune. However, according to him, when the Appeal Section 14A of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989, was filed by the accused the address in the title clause was mentioned as resident of Bawada, Taluka-Indapur, District Pune.

According to the learned counsel for the Applicant, apparently the address is incorrect and this is the reason the notice was never received by him despite it being issued by this Court on 18.02.2022 in Cr. Appeal 156/2022.

The interim protection was granted to the Appellant by the said order and on 19.09.2022, the same was extended till decision of the competent Court in the application for regular bail.

3] On perusal of the order dated 19.09.2022, it is seen that while the interim order granted on 18.02.2022 was continued, the learned APP made a statement that on completion of investigation charge sheet shall be filed

In the wake of this subsequent development, the Appellant was directed to file an application for regular bail on filing of the charge sheet and upon bail application being filed the Court was directed to decide it.

As a sequel, interim anticipatory bail granted to the appellant was directed to be continued till decision of the competent authority.

This is how Criminal Appeal came to be disposed off by specifically recording that at the time when the concerned court would pass orders on regular bail, the Respondent No.2- Complainant shall be afforded an opportunity of hearing.

4] It is true that while the order was passed on 19.09.2022, respondent/complainant was not heard, however, it is not that the Court decided to confirm the interim protection on merits. But on an event of filing of chargesheet, by specifically directing that the complainant shall be heard when the application filed by the accused is heard by the concerned Court.

I see no prejudice being caused to the Applicant as the order is not confirmed only on the ground that he has failed to mark his appearance, but on merits, the court arrived at a conclusion and confirmed the order.

Hence, in absence of any material, Interim Application is dismissed.

[BHARATI DANGRE, J]