

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

CRIMINAL APPEAL NO.1485 OF 2019

Rupali Vitthal Waghmode Appellant
versus
State of Maharashtra & Anr. Respondents

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- Mr. Rahul S. Kate, Advocate for Appellant.
- Mr. S. R. Agarkar, APP for the State/Respondent No.1.
- Smt. Megha S. Bajoria (Appointed) Advocate for Respondent No.2.

CORAM : SARANG V. KOTWAL, J.
DATE : 11th JANUARY, 2023

P.C. :

1. The Appellant has challenged the order dated 13/09/2019 passed by the Special Judge under SC ST Act, in Criminal Bail Application No.801 of 2019. In effect, the Appellant is seeking anticipatory bail in connection with C.R.No.168/2019 dated 05/03/2019 registered with Indapur police station u/s 323, 504, 506 r/w 34 of the Indian Penal Code and u/s 3(1)(r) and (s) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989.

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2. Heard Mr. Rahul S. Kate, learned counsel for the Appellant, Smt. Megha S. Bajoria, learned counsel for the Respondent No.2 and Mr. S. R. Agarkar, learned APP for the State.
3. In this case, the charge-sheet is filed against the co-accused. A copy of the same is annexed to this application. The FIR is lodged by the Respondent No.2. It is mentioned in the FIR that the Appellant's family had adjoining agricultural field to that of the informant. There was some dispute regarding laying of the pipeline from the agricultural field of the Respondent No.2. The incident had occurred on 25/02/2019 at about 10.30 a.m. At that time, the Respondent No.2 and her granddaughter were present in the field. A branch of tree fell on the border of the Appellant's field. The Respondent No.2 went there to pick up that branch. At that time, the Appellant and her husband were present in the field. It is alleged that the Appellant and her husband abused her. The Appellant's husband kicked her and pushed her on the ground. It is mentioned that the Respondent No.2 was abused with reference to caste and was threatened.

The incident was witnessed by Deepak Kharat and Bapu Chavan. On this basis, the FIR is lodged.

4. Learned counsel for the Appellant submitted that the allegations against the Appellant regarding assault and abuse with reference to caste are attributed to the Appellant's husband. There are only general allegations against the Appellant which do not refer to abuse with reference to caste as far as the Appellant is concerned.
5. Learned APP and learned counsel for Respondent No.2 opposed this application. They invited my attention to the statements of the aforesaid two eyewitnesses Deepak Kharat and Bapu Chavan, who had described the incident.
6. I have considered these submissions and I have perused the statements of those two eyewitnesses. In those two statements, there are general allegations and general statement involving the Appellant and her husband together for uttering abuses with reference to caste. The assault is attributed specifically to the Appellant's husband. The allegations against

the Appellant are vague. She is a lady. The offence is old. The FIR is lodged in March 2019. The incident had taken place on 25/02/2019 and the FIR was lodged on 05/03/2019. This delay is not explained in the FIR satisfactorily. Considering all these aspects, the Appellant can be protected by an order of anticipatory bail.

7. Hence, the following order :

ORDER

- (i) The Appeal is allowed.
- (ii) In the event of her arrest in connection with C.R.No.168/2019 dated 05/03/2019 registered with Indapur police station, the Appellant is directed to be released on bail on her furnishing P.R. bond in the sum of Rs.30,000/- (Rupees Thirty Thousand only), with one or two sureties in the like amount.
- (iii) Appeal stands disposed of accordingly.

(SARANG V. KOTWAL, J.)