

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
NAGPUR BENCH, NAGPUR.**

CRIMINAL APPEAL NO. 79 OF 2023

APPELLANT : Anil S/o Shivaji Khandare,
(Ori.Complainant) Aged 45 years, Occ - Labour,
R/o Village Borgadi,
Tah. Pusad, Dist. Yavatmal.

V E R S U S

RESPONDENTS :

1. State of Maharashtra
Through PSO Pusad City,
Dist. Yavatmal.
2. Dadarao Ramji Pulate,
aged 70 years, Occ. Nil.
3. Nandkumar Dadarao Pulate,
aged 37 years, Occ. Nil.
4. Hari @ Haribhau Dadarao Pulate,
aged 42 years, Occ. Nil.
5. Ajay @ Babarao Shivaji Sakhare,
aged 32 years, Occ. Nil.
6. Nana @ Nanarao Narayanrao Karan,
aged 45 years, Occ. Nil.

NA 2 to 6 all R/o Village Borgadi,
Tah. Pusad, Dist. Yavatmal.

Ms. Surabhi P. Naidu, Advocate h/f Shri M. P. Naidu, Advocate for
appellant.

Shri N. R. Rode, A. P. P. for respondent No.1.

Ms. Priyanka Arbat, Advocate for respondent Nos.2 to 6.

CORAM: VINAY JOSHI AND

BHARAT P. DESHPANDE, JJ.

DATE : 27/03/2023.

ORAL JUDGMENT : (PER VINAY JOSHI, J.) :

1. **Admit.** Heard finally with the consent of learned counsel appearing for the parties.
2. This is an appeal under Section 14-A the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 (for short, "SCST Act") seeking to quash the orders dated 20/12/2022 and 06/12/2022 passed in Criminal Bail Application No.442/2022 and Criminal Bail Application No.444/2022 respectively by the Trial Court.
3. The respondent Nos.2 to 6 have applied to the Trial Court for pre-arrest bail vide above referred two bail applications, which came to be allowed.
4. Being aggrieved, the informant has come up in this appeal raising a challenge, principally on the ground that the Trial Court has not heard the informant and therefore, both orders suffer from illegality.
5. The respondents have applied for pre-arrest bail in Crime No.582/2022 for the offences punishable under Sections 452, 326 and 294 r/w Section 34 of the Indian Penal Code and under Sections 3(1)(r)(s) and 3(2)(va) of the SCST Act. The Trial Court has granted pre-arrest protection in both applications.

6. We have gone through both the impugned orders. However, it does not reflect that the informant was heard in bail application. Learned counsel appearing for the appellant/informant made a statement that though they appeared in bail applications, however, they have even not filed reply, but the orders have been passed.

7. There is no dispute that Section 15-A(3)(5) mandates to give right of hearing to the informant in the bail applications. Apparently, the mandate appears to have not been followed. The Statute has made a specific provision to give right of hearing to the informant with a view that his side shall be brought before the Court while exercising discretion.

8. In the circumstances, it is necessary that the informant shall be given an opportunity to make his submissions in bail applications so that both applications would be decided on merit.

9. In view of the above, appeal is allowed. The impugned orders passed in Criminal Bail Application Nos.444/2022 and 442/2022 by Trial Court dated 06/12/2022 and 20/12/2022 are hereby quashed and set aside.

10. Both applications are restored and after hearing both sides, they shall be decided afresh on its own merit. The appellant

as well as respondent No.2 to 6 shall give their appearance in both bail applications to the Trial Court on 10/04/2023. On first appearance itself, the appellant / informant shall file his objections, if any. The Trial Court shall fix a date within one week thereafter for hearing the matter and decide both applications expeditiously.

11. The protection which was granted by the Trial Court in Criminal Bail Application Nos.442/2022 and 444/2022 shall extend in the nature of interim order till decision of both applications on merit. It is made clear that no separate notice shall be issued by Trial Court to either of the parties and if they remain absent, Trial Court is free to pass necessary order according to law.

12. Appeal stands disposed in above terms.

[BHARAT P. DESHPANDE, J.]

[VINAY JOSHI, J.]

Choulwar

VITHAL
MAROTRAO
CHOULWAR

Digitally signed by
VITHAL MAROTRAO
CHOULWAR
Date: 2023.03.28
17:09:16 +0530