



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

CRIMINAL APPEAL NO. 481/2023

APPELLANT: Abhaysingh s/o Babansingh
Chambalgour, Aged 41 years,
Occupation: Business, R/o Swagatam
Colony, Sai Nagar, Tq. and District
Amravati.

...V E R S U S...

RESPONDENTS 1] The State of Maharashtra,
through P.S.O., P.S. Rajapeth,
District Amravati.

2] Tukaram Bhikaji Chandekar,
R/o Swagatam Colony, Sai Nagar,
Tq. & Dist. Amravati.

Mr. Pankaj V. Navlani, Counsel for the Appellant.

Mr. H.D.Futane, APP for the Respondent No.1

Ms. Kirti Deshpande, Counsel (appointed) for the Respondent
No.2.

CORAM : **URMILA JOSHI-PHALKE, JJ**
DATE : **25/10/2023**

JUDGMENT

1. **Admit.** Heard finally with the consent of the
learned counsels appearing for parties.

2. By this appeal, the appellant has challenged order
dated 03.07.2023 passed by the Special Judge and Additional
Sessions Judge-2, Amravati by which the anticipatory bail

application of the present appellant is rejected.

3. The appellant is apprehending his arrest at the hands of the Police as crime is registered against him on the basis of report lodged by Tukaram Bhikaji Chandekar, on an allegation that he is residing alongwith his family members at Rajapeth and belongs to Scheduled Caste and on 24.06.2023 at about 12.38 pm, when he was present in his house, the present appellant has damaged his vharanda, which was in front of the gate of his house, on that count, there was quarrel between them, and at the relevant time, the co-accused, who is the wife of the appellant, has abused him on his caste. On the basis of said report, the Police have registered the crime against the present appellant and his wife.

4. The contention of the present appellant is that to attract the provisions under Section 3(1) (g), 3(1)(r), 3(1)(s) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 (hereinafter referred as, "Prevention of Atrocities Act") is concerned, no allegation is made against the present appellant that he abused the informant on his caste. The said allegations are levelled against wife of the present appellant, therefore, bar under Section 18 of the said Act will not attract and he be released on anticipatory bail by confirming his interim protection.

5. Learned APP strongly opposed the appeal on the

ground that in view of Section 18 there is a bar and therefore, appeal deserves to be rejected. He further submitted that considering the allegation against the present appellant in the FIR, prima-facie case is not made out and hence criminal appeal deserves to be rejected.

6. Heard Mr. Pankaj V. Navlani, learned counsel for the appellant. He invited my attention towards recitals of the FIR and submitted that, if the recitals of the FIR are taken into consideration, the entire allegations are against the wife of the present appellant as far as the abuses on caste is concerned. There is no single whisper against the present appellant to show that he has abused the informant on his caste, therefore, prima-facie case is not made out against the present appellant and therefore, bar under Sections 18 or 18-b is not attracted.

7. Having heard both the sides and on perusal of the recitals of the FIR, admittedly there is no allegation against the present appellant that he has abused the informant on his caste. While considering the bail application for anticipatory bail when the offence is committed under the provision of Prevention of Atrocities Act, 1989 and if prima-facie is not made out, it is settled law that the anticipatory bail application can be considered and there is no bar to grant the relief.

8. Considering the allegation against the present

appellant and the settled legal position and as there is no allegation against the present appellant that he has abused the informant on his caste, prima-facie case is not made out against the present appellant to attract the bar under Section 18 of the said Act. Considering this aspect, he was protected by granting ad-interim protection.

9. Learned APP submitted that the relevant statements are recorded during the investigation.

10. I have perused the entire investigation papers and nothing is brought on record to show that the present appellant abused the informant on his caste.

11. Considering the same, interim bail granted to the present appellant deserves to be confirmed. In that view of the matter, I pass the following order:

- i. Criminal Appeal is allowed.
- ii. In the event of arrest in connection with Crime No.597/2023 registered with Police Station, Rajapeth, Amravati for offences punishable under Sections 3(1)(g), 3(1)(r), 3(1)(s) of the Scheduled Caste and Scheduled Tribe (Prevention of Atrocities) Act, 1989, appellant namely Abhaysingh S/o Babansingh Chambalgour, be released on bail on he furnishing PR. Bond in the sum of ₹25,000/- with one surety in the like amount.

- iii. The appellant shall attend concerned Police Station, as and when required for the investigation purpose and shall cooperate in the investigation.
- iv. The appellant shall furnish his cell phone number and address with address proof to the investigating officer.
- v. The appellant shall not induce threat or promise to any witnesses, who are connected with the alleged crime.
- vi. Fees of the learned counsel for the respondent No.2, be quantified as per the Rules.

(URMILA JOSHI-PHALKE, J)