



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPEAL NO. 159 OF 2024

Ashok Sadashiv Kalamkar

... Appellant

VERSUS

The State Of Maharashtra
And Others

... Respondents

.....

Mr. Shashikant E. Shekade, Advocate for Applicant

Mr. S.R. Yadav Lonikar, APP for Respondent No.1 and 2 – State

Mr. Umakant Deshmukh h/f Mr. Rajkumar B. Dhaware,
Advocate for Respondent No.3

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[CORAM : NITIN B. SURYAWANSHI, J.]

DATE : 19th MARCH, 2024

ORDER :

1. By this appeal filed under section 14-A of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989, appellant challenges the impugned order passed by Additional Sessions Judge, Shrigonda in Criminal Misc. Application No.48 of 2024, thereby rejecting anticipatory bail to appellant in Crime No.16 of 2024, registered with Belwandi Police Station, District-Ahmednagar for offences punishable under sections 504 and 506 of the Indian Penal Code and under sections 3(1)(r), 3(1)(s), 3(2) of the Scheduled Castes Schedule Tribe (Prevention of Atrocities) Act.

2. Respondent No.2 lodged FIR on 11.01.2024 alleging that on 15.12.2023 at about 10.30 a.m., while he was proceeding towards Shrigonda, he received a call and therefore he stopped his motorcycle by the roadside, at that time, appellant came there and started abusing him by taking name of his caste. He was asking informant as to why his vehicle MH-16-CY-8382 is involved in the crime registered at the instance of informant. After registration of offence, appellant approached Sessions Court by filing Criminal Misc. Application No.48 of 2024 for anticipatory bail, which is rejected. Hence, the present appeal.

3. Heard learned advocate for applicant, learned APP for respondent nos.1 and 2-State and learned advocate for respondent no.3-informant. Perused the investigation papers.

4. It appears that, father-in-law of respondent no.3 died due to dash given to him by a car driven by unknown person. FIR about his death was lodged by informant, wherein he has stated that when they inquired about the vehicle, which gave dash to his father-in-law, they have received reliable information that the vehicle involved in the accident is MH16-CY-8382, belonging to appellant. The accident has taken place

on 27.11.2023 and the said FIR is lodged by respondent no.3 on 07.12.2023.

5. It is the case of appellant that his married daughter namely Ashwini has purchased the vehicle in question and the said vehicle is not at all involved in the accident. However, due to suspicion, the said vehicle is named in the FIR lodged by respondent no.3.

6. As per the allegations made in the FIR, though the alleged insult of respondent no.3 has taken place on a public road, investigation papers do not contain statements of witnesses who have witnessed the alleged incident. *Prima facie*, therefore, it appears that the alleged insult by taking name of caste of informant, abusing and assaulting has not taken place in a public view. Though the incident is alleged to have taken place on 15.12.2023, FIR is lodged on 11.01.2024. The delay is not explained. Therefore, possibility of false implication cannot be ruled out. In the backdrop of these facts, offences under Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, *prima facie*, are not attracted in the present case. Therefore, bar under section 18 of Scheduled Castes and Scheduled Tribes (Prevention of

Atrocities) Act, is not applicable in the facts of the present case.

7. Considering the fact that offence is registered on 15.01.2024, the investigation appears to be on the verge of completion and since nothing is to be recovered from appellant, his pre-trial custodial detention is therefore not necessary. Hence, the following order.

ORDER

- (i) Criminal Appeal is allowed.
- (ii) Impugned order order dated 01.02.2024 passed by learned Additional Sessions Judge, Shrigonda in Criminal Misc. Application No.48 of 2024, is hereby quashed and set aside.
- (iii) Interim protection granted to appellant by order dated 14.02.2024, is hereby confirmed.
- (iv) Till filing of charge-sheet, appellant shall attend the concerned police station as and when called by Investigating Officer and shall co-operate in the investigation. Appellant shall not tamper the prosecution evidence.

**[NITIN B. SURYAWANSHI]
JUDGE**