



drp

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPEAL NO.321 OF 2024

1. Vimalnath Manjaba Masalkar APPELLANTS
2. Pramila Vimalnath Masalkar

VERSUS

The State of Maharashtra and Another RESPONDENTS

.....
Mr. Avinash S. Khedkar, Advocate for the appellants
Mr. R. B. Dhaware, APP for respondent - State
Mr. S. M. Gunjkar, Advocate for respondent No.2 (appointed)
.....

[CORAM : NITIN B. SURYAWANSHI, J.]

DATE : 24th APRIL, 2024

ORDER :

1. This appeal, filed under section 14-A (2) of the Scheduled Castes, Scheduled Tribes (Prevention of Atrocities) Act, challenges order dated 20th March, 2024 passed by learned Special Judge, Ambad, in Criminal Bail Application No. 74 of 2024.
2. Informant lodged FIR on 24th February, 2024 alleging that on 20th February, 2024, when she was on the way to her home, from agricultural field and while she was passing from gut No. 239, at that time, appellants stopped her and told her that she should not go from their field, as she has filed case against them. Then appellants insulted informant in the name of her caste and

beat her. In the said incident, informant fell in the brook and sustained minor injuries on head. Appellants filed anticipatory bail application, which is rejected by Trial Court. Hence, this appeal.

3. Heard learned advocate for appellants, learned APP for State and learned advocate for respondent No. 2 – informant.

4. Appellants claim that they are innocent and false FIR is lodged against them on account of dispute over right of way.

5. There is delay of four days in lodging FIR. Admittedly, there is dispute between informant and appellants in respect of right of way. Therefore, *prima facie*, there is strong possibility of false implication of appellants in the present crime. Allegation of informant in the FIR that both appellants, in chorus, have abused her in the name of caste, is *prima facie*, unbelievable. Therefore, this Court is of the opinion that offence under the Atrocities Act is not attracted to the facts of the present case. Hence, bar under section 18 of the Atrocities Act would not be applicable. Nothing is to be recovered from appellants, hence their pretrial custodial detention is not necessary. In the result, following order:

ORDER

A. Criminal Appeal is allowed.

- B. Impugned order dated 20th March, 2024 passed by learned Special Judge, Ambad, in Criminal Bail Application No. 74 of 2024 is hereby quashed and set aside.
- C. In the event of arrest of appellants in connection with Crime No. 93 of 2024 registered with Ambad Police Station, District - Jalna appellants - Vimalnath Manjaba Masalkar and Pramilabai Vimalnath Masalkar, be released on bail, on executing Personal Bonds and Surety Bonds of Rs.15,000/- each with one surety in the like amount.
- D. Till filing of the charge sheet, appellants shall attend the concerned police station as and when called by Investigating Officer.
- E. Appellants shall not tamper prosecution evidence.
- F. Learned advocate appointed for respondent No.2 be paid fees as per schedule, within four weeks.

**[NITIN B. SURYAWANSHI]
JUDGE**