



s order has been corrected pursuant to *suo moto* speaking to minutes order dated 08/10/2024.

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPEAL NO. 327 OF 2024

KRUSHNA PARMESHWAR KANDE
VERSUS
THE STATE OF MAHARASHTRA AND ANOTHER

Mr. S. V. Jadhawar h/f Mr. S. S. Thombre, Advocate for the appellant
Mr. P. K. Lakhotiya, APP for the respondent/State
Mr. D. G. Kamble, Advocate for respondent no.2.

CORAM : R. M. JOSHI, J.

DATE : 1st OCTOBER, 2024

PER COURT :-

1. Heard.
2. This appeal is for seeking anticipatory bail in connection with Crime No.19/2024 registered with Naldurg Police Station, Dist. Osmanabad for offences punishable under Sections 306, 323, 504, 506 r/w 34 of the Indian Penal Code and Sections 3(1)(r), 3(1)(s) and 3(2)(va) and 3(2)(v) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act.
3. First information report lodged by the wife of the deceased indicates that the deceased had received Rs.3,30,000/- towards advance for providing labour for sugar cutting. Since he did not provide labour, it is alleged that the present appellant insisted for the repayment of the said advance amount. In the first information report itself it is stated that

the deceased had told them that since he does not have money to repay, he will work with them. It is contended that thereafter he started working with the appellant and on 06/10/2023 an incident has occurred in which he was threatened and abused over his caste and on the next day he committed suicide.

4. Learned counsel for the appellant submits that there is unexplained delay of about 106 days in filing of the FIR. It is his contention that since the informant was liable to repay the amount received by her husband, this is an attempt to pressurize him for not insisting repayment. It is his further contention that even if it is accepted for the sake of argument the appellant was calling upon the deceased to repay the amount that by itself this would not amount abetment of commission of suicide.

5. Learned APP opposed the appeal. Learned counsel for the informant submitted that in the first information report it is specifically stated that since there was another death in the family, the report could not be lodged immediately. It is his submission that the contentions in the first information report are sufficient to attract provisions of Atrocities Act. He cited Section 18 of the said Act in order to oppose grant of anticipatory bail.

6. There is no dispute that in case where case is made out for

invoking provisions of the Atrocities Act, the bar created by Section 18 of the Atrocities Act would apply. As far as present case is concerned, the first information report itself indicate that the alleged abuses over the caste were not in public view as the informant claimed that appellant is present as well as in the presence of the family members of the deceased such utterances were made. Apart from this, perusal of the investigation papers indicate that the statements of the other labourers indicate about there being no disputes between the deceased and the appellant. In the light of these facts that the delay caused in filing the FIR assumes importance. This court finds no reason not to accept the contention of the learned counsel for the appellant that in order to avoid the liability of the payment of repayment of the money the possibility of lodging of this FIR is not ruled out. Since no *prima facie* offence is made out punishable under the provisions of Atrocities Act, there is no embargo in protecting the liberty of the appellant.

7. Hence, appeal is allowed in terms of interim order dated 4th April, 2024.

(R. M. JOSHI, J.)

ssp