



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

1 CRIMINAL APPEAL NO. 502 OF 2024

Javed Munir Shaikh

VERSUS

The State Of Maharashtra And Another

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Advocate for Appellant : Mr. N.N. Bhagwat

APP for Respondent/State : Mrs. M.N. Ghaneker

Advocate for Respondent 2 : Mr. A.R. Muley

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CORAM : KISHORE C. SANT, J.

Dated : July 16, 2024

PER COURT :-

1. Heard the learned advocates for the respective parties.
2. The appellant has filed the present appeal, challenging the order passed by the learned Special Judge and Additional Sessions Judge, Aurangabad in Criminal Bail Application No. 908/2024, refusing to grant bail in the event of arrest.
3. The facts in short are that respondent No. 2/informant lodged FIR on 24.4.2024 bearing FIR No. 0149/2024 with Karmad Police Station for the offence punishable under sections 323, 504, 506 of the Indian Penal Code r/w. Section 3(2) (va), 3 (1)(r), 3(1) (s) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act. It is alleged that on 23.4.2024 the work of cementing the floor was going on in the house of informant. While the work was going on, the applicant/accused came near home in drunken condition and asked the informant to pay the amount of the labour working in the house as he wanted to go with them for having liquor. On that, altercation took place. The accused threatened that he would disturb the work of cementing of the house. In the altercation he also

took the name of the caste of the informant and had also assaulted the informant. The quarrel was seen by some of the persons in the village who tried to pacify the situation. He, thus, lodged the complaint on the next day with the police station.

4. The appellant approached the Sessions Court by filing Criminal Bail Application, seeking bail in the event of his arrest. The learned Sessions Judge rejected the application holding that the case is made out, attracting the offence under section 3 (1-s) and 3 (1-r) of the Atrocities Act. The Court also rejected the application in view of the bar under section 18 and 18A of the said Act. The appellant therefore filed this appeal.

5. The learned advocate vehemently argued that the FIR is lodged only because of the dispute on account of payment of labour charges. Altercation took place on that count. Merely taking name of someone's caste does not amount to insult or humiliating the said person on his caste. He relies upon the judgment reported in **2020 ALL MR (Cri) 365** in the case of **Vasantrao Madhavrao Vhadgir & Ors. Vs. State of Maharashtra and Anr.**

6. The learned APP vehemently opposed the application stating that the allegations read as it is clearly make out the case, attracting the sections 3(1) (s) and 3 (1)(r) and 3(1) (va). The incident has taken place in front of the house of informant i.e. in the public view. Since the offence is under Atrocities Act, there would be bar under section 18 and 18A of the said Act and the appeal deserves to be rejected on that count also. The learned APP submits that there are three independent eye witnesses and their statements are recorded. The statements also clearly show the involvement of the appellant in the offence.

7. The learned advocate for respondent No. 2 (appointed) has also

opposed the application vehemently. He adopts the arguments of the learned APP. In addition, he draws attention of this Court to para 3 of the impugned order.

8. On considering the allegations as it is and considering that there is dispute mainly on account of payment of labour charges, this Court finds prima facie that there is reason to implicate the appellant even under the Atrocities Act. Looking to the allegations, it is clearly seen that it is only in the altercation, the words relating to the caste are mentioned. It does not appear that there was deliberate intention to humiliate or insult the informant in the name of caste. The work was going on in the house of informant. From reading, it is not clear that exactly on which spot the altercation took place. No independent witnesses are mentioned in the FIR. The learned Sessions Court ought to have seen the attending circumstances. The Court has merely seen that there is name of the caste mentioned in the FIR. However, that by itself would not attract the ingredients of section 3 (1)(s), 3(2)(va) and 3 (1)(s). Considering the judgment in the case of **Vasantrao** (supra), this Court finds that the case is made out to allow the appeal by granting bail to the appellant in case of his arrest. Hence, the following order.

ORDER

- (i) The appeal stands allowed.
- (ii) The impugned order dated 10.5.2024 passed by the learned Special Judge and Additional Sessions Judge, Aurangabad in Criminal Bail Application No. 908/2024 is quashed and set aside.
- (iii) The appellant shall be released on bail in the event of his arrest in connection with FIR No. 149/2024 registered with Karmad Police Station

dated 24.4.2024 for the offences punishable under sections 323, 504, 506 of the Indian Penal Code r/w. Section 3(1)(r), 3(1)(s) and 3(2) (va) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act on furnishing PR bond and solvent surety of Rs.15,000/-.

(iv) During investigation the appellant shall not contact any of the witnesses and the informant. He shall not leave Aurangabad district without permission from the concerned police station. He shall attend the police station as and when called for investigation. He shall give his residential address and contact details, mobile number etc. to the police.

(v) The learned advocate appointed for respondent No. 2 is entitled to receive the fees as per the Rules. The fees be paid by the Legal Aid Services, Sub-Committee, Aurangabad.

(Vi) The appeal stands disposed of.

(KISHORE C. SANT, J.)

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