



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

CRIMINAL APPEAL NO. 1011 OF 2023

SHRI DILIP BHAUSAHEB KHEDKAR
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

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Mr. Yogesh B. Bolkar, Advocate for Appellant
Mr. D.B. Bhange, APP for Respondent Nos.1 & 2 – State
Mr. Kalyan D. Bade Patil, Advocate for Respondent No.3

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CORAM : NITIN B. SURYAWANSHI, J.

DATE : 21th FEBRUARY, 2024

PER COURT :

1. This appeal filed under Section 14A of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, challenges the order dated 11/10/2023, passed by learned Special (Atrocity) Judge, Beed, in Criminal Bail Application No.976/2023, thereby rejecting anticipatory bail application of appellant.

2. At the instance of respondent No.3 FIR is registered at C.R. No.185/2023, with Shirur Police Station, Beed, for offence punishable under Sections 323, 504, 506 of the Indian Penal Code and Section 3(1)(r) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act. It is alleged in the FIR that informant is working as peon in Gram Panchayat, Savargaon, and he is assigned duty to release water. On 17/09/2023, at 06:30 p.m., when he was standing in front of a grocery shop along with Ashok

Gaikwad, Sominath Gaikwad, Ashok Dhakane, Prakash Vadmare, appellant came there in inebriated condition and questioned him as to why he is not releasing water on time. He then caught collar of informant and called name of his caste. In the scuffle, informant fell down and received abrasion to his right hand finger. Appellant abused informant in the name of his caste and threatened him. Thereafter, Sachin Rokade and Ashok Gaikwad intervened and separated informant from appellant. Appellant's application for anticipatory bail is rejected by the trial Court. Hence, the present appeal.

3. Heard learned advocate for appellant, learned advocate for respondent No.3 and learned APP for respondent Nos.1 and 2. Perused the investigation papers.

4. Though it is alleged in the FIR that appellant has abused informant in the name of caste, no specific abuses are mentioned in the FIR. Even as per the allegations made in FIR, appellant was in intoxicated condition and therefore, *prima facie* no *mens rea* can be attributed to appellant that he intended to insult informant by taking name of his caste. In these peculiar facts, *prima facie*, offences under Atrocities Act are not made out and hence, bar under Section 18 would not be applicable to the facts of the present case.

5. Investigation in present crime is almost complete and charge-sheet is likely to be filed within a fortnight. Appellant has attended concerned police station and co-operated in the investigation. Nothing is to be recovered from appellant.

6. Appeal is, therefore, allowed by confirming interim protection granted to appellant by order dated 27/10/2023. Impugned dated 11/10/2023, passed by learned Special (Atrocity) Judge, Beed, in Criminal Bail Application No.976/2023, is hereby quashed and set aside.

7. Till filing of charge-sheet, appellant shall attend concerned police station as and when called by investigating officer and shall co-operate in the investigation. Appellant shall not tamper prosecution evidence.

(NITIN B. SURYAWANSHI, J.)