



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

CRIMINAL APPEAL NO. 1065 OF 2023

AMIT PANDURANG KAWADE

VERSUS

THE STATE OF MAHARASHTRA AND ANOTHER

...

Mr. Shrikant G. Kawade, Advocate for Appellant

Mr. S.B. Jadhav, APP for Respondent No.1 – State

Ms. Y. A. Namde, Advocate for Respondent No.2 (Appointed)

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CORAM : NITIN B. SURYAWANSHI, J.

DATE : 14th FEBRUARY, 2024

PER COURT :

1. This appeal takes exception to the order dated 31/10/2023, passed by learned Special Judge, Bhoom, in Criminal Bail Application No.182/2023, thereby rejecting anticipatory bail to appellant in C.R. No. 301/2023, registered with Washi Police Station, Osmanabad, for offence punishable under Sections 323, 504, 506 of the Indian Penal Code and Sections 3(1)(r) and 3(1)(s) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act.

2. Informant lodged FIR on 07/10/2023 alleging that on 01/10/2023 at about 12:00 noon, while he was walking towards Washi old bus stop, appellant stopped him near Pan shop of Bashir Patwekar and asked to settle business account between them in respect of selling *Khava*. Informant then told appellant to pay Rs.14,000/- and handover his accounting diary. At that time,

appellant slapped him, took name of his caste and abused him by giving fists and kick blows.

3. Pursuant to registration of crime, appellant preferred anticipatory bail application, which is rejected by Sessions Court. Hence, the present appeal.

4. Heard learned advocate for appellant, learned advocate for respondent No.2 and learned APP for respondent No.1 – State. Perused the investigation papers.

5. Charge-sheet in the present crime is filed on 04/01/2024 and the case is numbered as Special Case No.02/2024. There is delay of six days in lodging FIR. Some of the eye-witnesses have not supported allegations made in the FIR. Appellant has filed affidavit of two of the eye-witnesses in the Sessions Court, wherein they have stated that informant threatened appellant to involve him in atrocity case.

6. Taking into consideration the contradictory statements of eye-witnesses, *prima facie*, possibility cannot be ruled out that due to the transactions between appellant and informant, appellant is falsely roped in the present crime. In these peculiar facts, bar under Section 18 would not be applicable in present case. In view of filing of charge-sheet, pre-trial custodial detention of appellant is not necessary.

7. In the result, appeal is allowed by confirming interim protection granted to appellant by order dated 04th November, 2023. Impugned order dated 31/10/203, passed by learned Special Judge, Bhoom, in Criminal Bail Application No.182/2023, is hereby quashed and set aside.

8. Fees of learned advocate appointed to represent respondent No.2 be paid by the High Court Legal Services, Sub-Committee, Aurangabad, as per the schedule, within a period of four weeks.

(NITIN B. SURYAWANSHI, J.)