



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

CRIMINAL APPEAL NO. 1112 OF 2023

PRASHANT S/O SHIVAJI MITKAR
VERSUS
THE STATE OF MAHARASHTRA AND ANOTHER

...
Mr. D.S. Bagul, Advocate h/f Mr. Parth S. Salunke, Advocate for Appellant
Ms. V. S. Chaudhari, APP for Respondent No.1- State
Mr. M. R. Shaikh, Advocate h/f Mr. Shaikh Ashraf Patel, Advocate for Respondent No.2
...

CORAM : NITIN B. SURYAWANSHI, J.

DATE : 23rd JANUARY, 2024

PER COURT :

1. This appeal is filed under Section 14-A of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989, challenging order dated 01/11/2023, passed by learned Special Judge, Osmanabad, below Exhibit-17 in Special Case No.18/2022, thereby rejecting anticipatory bail application filed by appellant.

2. FIR is lodged by informant Sumitra Pandhare alleging that she is working on the post of Assistant Teacher at Zilla Parishad Primary School, Manewadi, Taluka Tuljapur and her husband Sanjay Ghante is working as Assistant Teacher at Zilla Parishad Primary School, Indira Nagar, Naldurg. She is member of Taluka Shikshak Sahakari Patpurvatha Sanstha, Tuljapur. Appellant is working as Primary Teacher at Zilla Parishad Primary School, Manewadi, Tuljapur and is director of said Patsanstha. Appellant is knowing

about family and caste of informant. Since appellant was on the post of Chairman of said Patsanstha, he has misused Cheque No.753018, which was amongst the cheques given towards security of loan of Rs.4 lakhs availed by informant and with a view to defraud informant, deposited the said cheque by writing amount of Rs.2,67,000/- on the same. The said cheque came to be dishonoured. Then appellant issued legal notice to informant on 30/07/2021. On the basis of said, crime is registered. Appellant filed anticipatory bail application before trial Court on registration of offence. Trial Court rejected the same. Appellant approached this Court and this Court recorded submission of investigating officer that he does not want appellant's custody for investigation purpose and therefore, disposed of the application. Thereafter supplementary statement of informant was recorded and then again appellant filed anticipatory bail application before trial Court, which was rejected. Hence, the present appeal.

3. Heard learned advocate for appellant, learned Additional Public Prosecutor for State and learned advocate for respondent No.2. Perused the investigation papers in the form of charge-sheet placed on record.

4. Perusal of documents placed on record *prima facie* shows that there were money transactions between appellant and informant. Some of the statements recorded in the investigation

show that appellant at the relevant point of time was Chairman of said Patsanstha and he has misused said post for obtaining cheque deposited by informant towards security of her loan of Rs.4 Lakhs.

5. The cheque is already placed before trial Court in the proceedings filed under Section 138 of the Negotiable Instruments Act, initiated by appellant. Investigation in present matter is over and charge-sheet is already filed. Investigation pertains to documentary evidence and the documents are already seized by investigating officer. Appellant's custodial interrogation is therefore, not necessary in the peculiar facts of present case. Considering allegations made in the FIR and statements recorded during the course of investigation, *prima facie*, offence under Atrocities Act is not attracted.

6. In that view of the matter, appeal is allowed by confirming interim protection granted to appellant vide order dated 22/11/2023.

(NITIN B. SURYAWANSHI, J.)