



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

CRIMINAL APPEAL NO. 1152 OF 2023

ABUJAR CHAND PATHAN

VERSUS

THE STATE OF MAHARASHTRA AND ANOTHER

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Mr. Vivekanand B. Deshmukh, Advocate for Appellant

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

Mr. S.N. Patne, Advocate for Respondent No.2

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CORAM : NITIN B. SURYAWANSHI, J.

DATE : 07th 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 29/11/2023, passed by learned Special Judge, Osmanabad, in Bail Application No.624/2023.

2. Shesharao Maroti Waghmare lodged FIR at Naldurg Police Station on 09/11/2023, alleging that he is resident of Hipparga, Taluka Tuljapur, and does labour work of sugarcane cutting. One Azar Mujawar resident of Motal, asked informant for supplying sugarcane cutting labours. Accordingly agreement was executed between Azar Mujawar and informant. Rs.2,20,000/- was given as advance to informant for the said work. Thereafter in Diwali, informant visited Pathan for doing the work. At that time Pathan told him that he does not need the labours and asked informant to return the amount. Informant, at that time, paid

Rs.1,00,000/-. Thereafter Rs.1,00,000/- was paid to Pathan and only Rs.20,000/- were remained to be paid. On 06/11/2023, at about 05:00 p.m., Pathan along with his relatives came in the Scorpio car at the house of informant and kidnapped him and took him to the agricultural field where he was threatened and assaulted and abused in the name of caste. On registration of crime appellant filed Criminal Bail Application No. 624/2023, before the Sessions Court, Osmanabad, which is rejected by the impugned order. Hence, present appeal.

3. Heard learned advocate for appellant, learned advocate for informant and learned APP for State. Perused the documents placed on record.

4. Appellant is 72 years old person and allegation against him is that he abused informant by taking name of his caste. As per the allegations in the FIR incident has taken place in the field of Pathan. Except abusing and taking name of caste and giving threats no other active participation of appellant appears to be there as per the allegations of informant. In that view of the matter, and since incident is not taken place in public view, bar under Section 18 would not be applicable in present case.

5. Considering the allegations made in the FIR and perusal of investigation papers, *prima facie* custodial detention of appellant

is not warranted. Nothing is to be recovered from appellant. As appellant is 72 years old person he is entitled for protection.

6. In the result, appeal is allowed by confirming interim protection granted to appellant vide order dated 08th December, 2023. Impugned order dated 29/11/2023, passed by learned Special Judge, Osmanabad, in Bail Application No.624/2023, 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.)