



IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPEAL NO. 1193 OF 2023

Sandip @ Arjun S/o Balaji Halde

....Appellant

VERSUS

The State Of Maharashtra And Another

.....Respondents

.....

Mr. A.A. Mukhedkar, Advocate for Appellant.

Mr. N.B. Patil, APP for Respondent No. 1-State.

Mr. Amol Patale, Advocate for respondent No. 2.

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[CORAM : NITIN B. SURYAWANSHI, J.]

DATE : 21st FEBRUARY, 2024

ORDER :

1. This appeal filed under section 14-A of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 (for short 'Atrocities Act'), challenges the order passed by learned Additional Sessions Judge, Kandhar, Dist. Nanded, in Criminal Application (Bail) No. 227 of 2023.

2. FIR is lodged by informant namely Arvind Pattekar stating that he had borrowed an amount of Rs. 50,000/- from appellant. On 11.11.2023, at 9.00 am, when he was proceeding to his house from village panchayat office, in front of house of Sarpanch, on public road, appellant stopped him and demanded

back his Rs. 50,000/-. He abused in the name of caste of informant and insulted him and then picked up a stone and assaulted him on head. Ashwin Kambale, Ram Jadhav and other people present there intervened and separated them.

3. After registration of crime, appellant preferred Criminal Application (Bail) No. 227 of 2023, which is rejected by learned Additional Sessions Judge. Hence, the present appeal.

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

5. Learned advocate for appellant submits that as there is civil dispute pending between appellant and informant, appellant is falsely implicated in the present crime. In support of appeal, he relied on Vasant Kerba Shinde and Others vs. State of Maharashtra and Others, 2021 DGLS(SC) 1091, to contend that Sections 3(1)(r) and 3(1)(s) of Atrocities Act are not attracted in the present case. He therefore submits that appellant is entitled for protection as bar under section 18 of Atrocities Act would not get attracted in the facts of the present case.

6. Learned APP and learned advocate for respondent No. 2 on the other hand strenuously opposed the appeal. It is submitted that there are three eye witnesses to the incident and informant has suffered injuries in the said incident.

7. On going through investigation papers particularly injury certificate, the injuries suffered by informant i.e. abrasion on right parietal region scalp, contusion on left aspect back lumbar region and history of trauma to lower teeth, both lower teeth movable, are attributed to applicant. There are clear allegations that at the time of incident appellant abused in the name of caste and insulted informant. Three eye witnesses have supported the allegations made in the FIR. Incident has taken place on public road, in public view. In view of these facts, bar under section 18 of Atrocities Act is attracted to the present case. Considering the complicity of appellant and gravity of accusations levelled against him, appellant is not entitled for discretionary relief of anticipatory bail. Learned Additional Sessions Judge has given cogent reasons while rejecting the anticipatory bail application of appellant. No fault is found with the order passed by Sessions Court. Appeal being devoid of merit is dismissed.

8. At this stage, learned advocate for appellant prays for continuation of interim protection granted to appellant. For the reasons stated in the order, prayer is rejected.

[NITIN B. SURYAWANSHI, J.]