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

902 CRIMINAL APPEAL NO. 603 OF 2024

Bandu Nana Pawar

VERSUS

The State Of Maharashtra And Others

....

Mr S. J. Salunke, Advocate for Appellant

Mrs M. L. Sangit, A.P.P. for Respondent Nos.1 and 2/State

Mr N. B. Narwade, Advocate for Respondent No.3/informant

CORAM : R. M. JOSHI, J.

DATE : 17th October, 2024

PER COURT :-

1. This appeal is filed against the order of refusal of anticipatory bail to appellant, passed by the Special Court, in connection with Crime No.0156 of 2024, registered with Talwada police Station, Dist. Beed, for the offences punishable under Sections 323, 504, 506 of the Indian Penal Code and under Sections 3(1)(r), 3(1)(s), 3(2)(va) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act (for short 'Atrocities Act').

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2. First information report is lodged by first informant by stating that, he belongs to scheduled castes community. He further claims to be working as Gram Rojgar Sevak in group Grampanchayat. He claimed that, on 01/05/2024, at about 7:00 p.m., he met present appellant and requested him to pay his honorarium as his daughter is ill. The appellant started abusing him in filthy language and also abused him over caste and said abuses are duly recorded in the report. He states that, thereafter, it was told by appellant that he will give him a cheque and he took informant with him. He, however, further abused and beaten him. First informant report came to be lodged on 08/05/2024.

3. Learned counsel for appellant submits that, appellant is elected as a 'Sarpanch' and informant and his wife, who also contested the same election, were defeated. It is contended that, there is inordinate delay of seven days in lodging of the first information report and as such, this is a case of false implication, owing to political rivalry. Without prejudice, it is argued that, even if it is accepted that incident has occurred, as alleged by informant in the report, in view of the judgment of the Nagpur

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Bench of this Court in case of ***Pandurang Jagan Wabale and another Vs. State of Maharashtra and another, [2024 ALL MR (Cri.) 1666***, no offence under the provisions of Atrocities Act can be said to have been made out. He also placed reliance upon judgment of the Hon'ble Supreme Court in case of ***Hitesh Verma Vs. State of Uttarakhand and another, [2021 CRI. L.j. 1]***. It is submitted that, there is serious dispute with regard to the fact that informant is a Gram Rojgar Sevak or not. In this regard, reference is made to the information received under the Right to Information Act, wherein it is stated that there is no file in the office of the Block Development Officer, Panchayat Samiti, Georai, indicating appointment of informant as Gram Rojgar Sevak. On these amongst other submissions, appellant seeks pre-arrest bail.

4. Learned APP, as well as learned counsel for informant opposed the aforesaid submissions of learned counsel for appellant by pointing out the first information report, which candid records utterances made by informant against appellant,

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which are on the face of it, aimed at insulting him over the caste and hence, offence under Atrocities Act.

5. Learned APP made reference to the independent witness Shri. Buddhbhushan Wakte, who has seen incident, in which, the informant was assaulted, as well as abused over the caste by appellant. It is submitted that, in view of the embargo created by Section 18 of the Atrocities Act, appellant is not entitled for anticipatory bail. Learned counsel for informant submits that, there is no substance in the contentions of learned counsel for appellant that there is delay in lodging of the report. According to him, he immediately went to the police station, however, his report was not accepted and therefore, written complaint is made to the Superintendent of Police.

6. Before dealing with the merits of the case, it is necessary to place on record that, during the course of hearing, it was sought to be contended on behalf of the informant that he was present in the police station immediately after the utterances, but his report was not accepted. In order to ascertain said fact, the Police Inspector of the said police station was called upon to

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submit report in this regard. From the report submitted by him, it appears that the CCTV cameras installed in the Police Station were non functional during the relevant period i.e. from 17/04/2024 till 01/07/2024. This Court, therefore, was not able to entertain the contention of the informant about he having visited Police Station but his report was not registered.

7. Be that as it may, the incident in question has occurred on 01/05/2024. Though it is submitted that report is lodged after about seven days, however, there is documentary evidence on record to show that, on 03/05/2024, informant had given complaint dated 02/05/2024 to the Superintendent of Police about occurrence of the incident. In such circumstances, though there is no evidence on record in form of CCTV footage to indicate that he was present in the police station immediately after the occurrence of the incident. This documentary evidence is sufficient to show that delay caused in lodging the report is neither deliberate nor attributed to the informant.

8. Section 18 of the Atrocities Act creates embargo in granting anticipatory bail to the accused, against whom *prima*

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facie case is made out for commission of offence under the Atrocities Act. In this regard, it is relevant to take note of the first information report. In the first information report, it is specifically stated by the informant that, when he demanded honorarium in respect of the work as Gram Rojgar Sevak, appellant abused him. *Prima facie*, perusal of the utterances made by accused do not show that they were merely naming caste of informant, but the manner, in which the words are uttered, clearly shows intention behind utterance of the words was to insult informant over the caste. In considered view of this Court, the judgment of this Court relied upon by learned counsel for appellant in case of **Pandurang Jagan Wabale (supra)**, has no application to the present case, since in paragraph No.12 of the said judgment, it is recorded that in the said case, first information report nowhere shows that appellants abused informant on the caste.

9. As far as the defence of appellant about the informant not being working as a Gram Rojgar Sevak is concerned, the informant has placed on record documentary evidence, which

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prima facie, indicates that, he was working on the said post. Once such material is brought on record, the Court will have no other option to accept his contention that he went to appellant for demanding honorarium in respect of the said work and so he was abused and insulted over the caste. Apart from this, it is not permissible for this Court at this stage not to rely upon the statement in first information report and to hold that this is a case of false implication.

10. *Prima facie*, perusal of first information report, which is supported by independent witness Shri. Buddhbhushan Wakte indicates that, incident as alleged in the first information report dated 01/05/2021. There is nothing to indicate that he is interested witness of the incident which has occurred, which is *prima facie* sufficient to show that offence under provisions of the Atrocities Act is committed. Hence, the embargo created by Section 18 of the Act would apply to the present case. The appellant, therefore, has failed to make out any case to grant of pre-arrest bail. Hence, this appeal is dismissed.

11. Before parting, it is necessary to record that, in the present case, informant has specifically contended that he was present in the Police Station after occurrence of the incident, but his report was not lodged. Police Inspector of the Talwada Police Station has submitted report indicating that CCTVs installed in the said Police Station were non functional from April 2024 for considerable period upto July 2024, for the reason of its repair work. It seems that, now 11 CCTV cameras installed and those 11 cameras are functioning.

12. The Hon'ble Supreme Court in the case of **Paramvir Singh Saini Vs. Baljit Singh and others, [AIR 2021 Supreme Court 64]**, has held as under :-

“14. The duty and responsibility for the working, maintenance and recording of CCTVs shall be that of the SHO of the police station concerned. It shall be the duty and obligation of the SHO to immediately report to the DLOC any fault with the equipment or malfunctioning of CCTVs. If the CCTVs are not functioning in a particular police station, the concerned SHO shall inform the DLOC of the arrest / interrogations carried out in that police station during the said period and forward the said record to the DLOC. If the concerned SHO has reported malfunctioning or non-functioning of CCTVs of a particular Police Station, the DLOC shall immediately request the

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SLOC for repair and purchase of the equipment, which shall be done immediately.

15. The Director General/Inspector General of Police of each State and Union Territory should issue directions to the person in charge of a Police Station to entrust the SHO of the concerned Police Station with the responsibility of assessing the working condition of the CCTV cameras installed in the police station and also to take corrective action to restore the functioning of all non-functional CCTV cameras. The SHO should also be made responsible for CCTV data maintenance, backup of data, fault rectification etc.”

13. Hon’ble Supreme Court has given several directions and it is responsibility of the Police Authorities to ensure that the CCTVs installed in Police Stations remain functional at all times. Though, no *mala fides* can be attributed to the concerned Police Station, but as a matter of fact, the CCTV cameras installed therein were not functioning for a long period of three months. Thus, this Court finds it appropriate to direct the Authorities to ensure strict compliance of order of the Hon’ble Supreme Court and appropriate steps be taken forthwith to ensure that CCTV cameras installed in all Police Stations in the State of Maharashtra function uninterruptedly. Hence, this order be sent to the Chief

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Secretary and Home Secretary, State of Maharashtra for appropriate action in this regard.

(R. M. JOSHI)
Judge

14. At this stage, learned counsel for appellant seeks continuation of interim relief granted to the appellant on 25/07/2024, to enable him to approach the Hon'ble Supreme Court for challenging this order passed by this Court. Learned APP and learned counsel for informant opposed the said request. Since liberty of the appellant was protected by an interim order, in the interest of justice, the said order is extended for a period of four weeks from today, to enable the appellant to approach the Hon'ble Supreme Court.

(R. M. JOSHI)
Judge

sjk