



IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
BENCH AT AURANGABAD.

946 CRIMINAL APPEAL NO. 792 OF 2024

SURAJ BALIRAM SAKE

VERSUS

THE STATE OF MAHARASHTRA AND OTHERS

...

Advocate for Appellant : Mr. Salunke Sudarshan Jeevanrao

APP for Respondent/State : Mr.S.B. Narwade

Advocate for Respondent no.3 : Mr.Rahul Cheble (appointed)

...

CORAM : **SHIVKUMAR DIGE, J.**

DATE : 25th September, 2024.

P.C.:

1. This appeal is preferred against the order dated 17th August 2024 passed by the Additional Sessions Judge, Latur in Criminal Bail Application No.532 of 2024 filed in pursuance of the F.I.R. No.0374 of 2024 registered with Police Station, Chakur, Dist.Latur, for the offences punishable under sections 127(2), 221 of the Bhartiya Nyaya Sanhita, 2023 and section 3(1)(m) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act.

2. It is prosecution's case that on 7th August, 2024, the appellant had gone in the Gram Panchayat office for the work of village and informant, who is Sarpanch of the said village assured him that she will do the work as per law. On 8th August, 2024, at about 8:00 a.m., the appellant came to the informant when she had gone to inspect the work of village near water tank and told her to give her signature on the form of labour scheme. When informant replied that she had come

for inspection regarding the application submitted by him Yesterday and to come in Gram Panchayat office for signature. The applicant told her, if she would not put her signature immediately then he will snatch away her seal and stamp and would put her signature himself. Then the informant told him “she will see him, if he touch her” and she left for Gram Panchayat office. When she was present in the Gram Panchayat office, after 15-20 minutes, the appellant came there with lock and he locked the Gram Panchayat office from outside when the informant was inside. When the informant asked him why he locked the door of Gram Panchayat office then the appellant told her that as she did not sign on the paper brought by him, hence he detained her. Thereafter, the informant called on 112 police helpline number. Informant was detained in the Gram Panchayat office for 45-50 minutes. The appellant opened the lock before arrival of the police and ran away.

3. It is contention of the learned counsel for the appellant that the appellant has been falsely implicated in this case. All the offences are bailable except the offence under the Atrocities Act. There is no mention of abuse on caste to the informant or it is not mentioned in the F.I.R. that the appellant willfully detained the informant knowing that she belongs to scheduled caste. Considering the allegations against the appellant, the custodial interrogation of the appellant is not required and requested to allow the appeal. He relied on ***Hitesh Verma Vs. State of Uttarakhand and another (2021 Cri. L.J. 1)***

4. It is contention of the learned APP and learned counsel for respondent no.3 that the appellant was aware about the caste of the informant that she belongs to the scheduled caste. She is Sarpanch of village. In spite of that the appellant threatened her to sign on paper and when she refused to sign, the appellant detained the informant in Gram Panchayat office. Section 3(1)(m) of the S.C. S.T. Act is squarely applicable against the appellant. Considering the allegations against the appellant, the custodial interrogation of the appellant is required and requested to dismiss the appeal.

5. I have heard all the learned counsel. Perused the F.I.R., police papers produced on record and the impugned order passed by the Special Court.

6. The allegations against the appellant are that he detained the informant, who is Sarpanch of the said village belonging to the scheduled caste in the Gram Panchayat office. In the F.I.R., it is not mentioned that being scheduled caste of the informant, the appellant detained the informant in the Gram Panchayat office. As per the view taken by the Hon'ble Supreme Court in the case of **Hitesh Verma Vs. State of Uttarakhand and another (supra)** that offence under the Atrocities Act is not established merely on the fact that the informant is member of scheduled caste unless there is an intention to humiliate the member of scheduled caste and scheduled tribe for the reason that the victim belongs to such caste. From the averments of the F.I.R., it

does not disclose that the appellant detained the informant as she belongs to schedule caste. Considering these facts, the custodial interrogation of the appellant is not required and I pass following order :-

ORDER

- (i) The appeal is allowed.
- (ii) The order dated 17th August 2024 passed by the Additional Sessions Judge, Latur in Criminal Bail Application No.532 of 2024 is quashed and set aside.
- (iii) In the event of arrest of the appellant in connection with F.I.R. No.0374 of 2024 registered with Police Station, Chakur, Dist.Latur, for the offences punishable under sections 127(2), 221 of the Bhartiya Nyaya Sanhita, 2023 and section 3(1)(m) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, the appellant be released on executing personal bond in the sum of Rs.20,000/- with one surety of the like amount, on the following conditions :-
 - (a) the appellant shall attend the concerned police station as and when required by the Investigating Officer.
 - (b) the appellant shall not enter in village Shivankhed, Tq. Chakur, Dist. Latur and not to interfere in the work of Gram Panchayat, till filing of the charge-sheet.
- (iv) Fees of Rs.10,000/- be paid to Mr.Rahul Cheble, learned

counsel appointed to represent the cause of respondent no.3 through the High Court Legal Services Sub-Committee, Aurangabad.

(v) It is made clear that the observations made in this order are prima facie in nature and the trial Court shall not get influenced by the same and decide the trial on its own merits.

[SHIVKUMAR DIGE, J.]

sga