

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

CRIMINAL APPEAL NO.387 OF 2024

X Y Z

....Appellant

V/S

The State of Maharashtra & Anr.

....Respondents

Ms. Shradha K. Nakadi a/w Ms. Seema Dighe for the Appellant.

Ms. Shilpa G. Dhumal, APP for Respondent No.1/State.

Mr. Rajaram V. Bansode for Respondent No.2.

Mr. G.B. Nimbalkar, HC, Akulj Police Station present in Court.

CORAM: SANDEEP V. MARNE, J.

DATE : 12 JUNE 2024.

P.C.:

1 This Appeal is filed under section 14A of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 (**SC & ST Act**) challenging the order dated 11 January 2024 passed by the Additional Sessions Judge, Malashiras, granting pre-arrest bail to Respondent No.2 by making absolute the interim protection granted by order dated 29 December 2023.

2 I have heard Ms. Nakadi, the learned counsel appearing for the Appellant and Ms. Dhumal, the learned APP for the Respondent-State. I have also gone through the FIR as well as detailed order passed by the learned Additional Sessions Judge.

3 The first contention of Ms. Nakadi is that there is a specific bar under provisions of Sections 18 and 18A of the SC & ST Act to grant pre-arrest bail to the accused when offence involving SC & ST Act are alleged. However in case of *Dr. Subhash Kashinath Mahajan vs. The State of Maharashtra & Anr.* (2018) 6 SCC 454 and *Prathvi Raj Chavan vs. Union of India & Ors.* in Writ Petition (C) No.1015 of 2018, the Apex Court has held that there is no absolute bar under sections 18 and 18A of the SC & ST Act to grant application for pre-arrest bail involving offences under the SC & ST Act. It is for the Court to consider the material on record to ascertain as to whether any prima facie case is made out in respect of the offences involving the SC & ST Act while deciding the application for pre-arrest bail.

4 In the present case, the FIR is registered on 23 December 2023 alleging maintenance of physical relationships with the Appellant for unduly long period from 5 November 2021 to 16 September 2023. The last incident is alleged to have occurred on 16 September 2023. The FIR is however registered on 23 December 2023. The learned Sessions Judge has taken note of delay in lodging the FIR. The learned Sessions Judge has also taken into consideration absence of any allegations in the FIR about abusing with reference to caste of the Appellant. The learned Sessions Judge has also taken note of financial transaction between the Appellant and Respondent No.2. In my view, the well reasoned order passed by the learned Sessions Judge does not warrant any interference considering the facts and circumstances of the present case. The Appeal is devoid of merits, is accordingly rejected.

5 The learned APP has confirmed that the investigations in the crime are already completed and all relevant materials such as mobile phone of the accused, registers of hotels and lodges etc. are already seized by the Investigating Officer.

6 However it is clarified that in the event of any need for conduct of further investigation, the Respondent No.2 accused shall co-operate with the concerned Investigating Officer.

(SANDEEP V. MARNE, J.)

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signed by
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