

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

CRIMINAL APPEAL NO. 397 OF 2024

Rashid Balesha @ Balish Mulla

....Appellant

V/s.

The State of Maharashtra (through
Vijapur Naka Police Station, Solapur
vide C.R. No. 643/2023) & anr.

....Respondents

Mr. Ritesh Thobde a/w. *Ms. Ankita Pramod Rai, for the Appellant.*

Ms. Anuja S. Gotad, *APP for Respondent-State.*

Ms. Manisha Devkar, *Advocate appointed for Respondent No.2-
Complainant.*

PN, Mr.Waman P. Shelke, Vijapur Naka Police Station, Solapur present.

CORAM : SANDEEP V. MARNE, J.

Date : 25 September 2024.

P.C. :

1) This is an Appeal under the provisions of Section 14A of the Scheduled Castes & Scheduled Tribes (Prevention of Atrocities) Act, 1989 (**SCST Act**) challenging the order dated 22 March 2024 passed by the learned Additional Sessions Judge, Solapur rejecting the application filed by the Appellant for anticipatory bail in connection with Crime No.643/2023 registered with Vijapur Naka Police Station, Solapur for the offences punishable under Sections 354, 354D, 324, 323, 143, 147, 148, 149, 504 and 506 of the Indian Penal Code (**IPC**) and Sections 3(1)(r)(s), 3(2)(va), 3(1)(w)(i)(ii) of the SCST Act.

2) I have heard Mr. Thobde, the learned counsel appearing for the Appellant, Ms. Devkar, learned counsel appointed by the Court to represent Respondent No.2 and Ms. Gothad, Learned APP for State.

3) After having considered the submissions canvassed by the learned counsel appearing for the parties, it appears that in the initial FIR statement dated 18 November 2023, there is no allegation of any caste based abuses by any of the accused in respect of both the incidents of 15 November 2023 and 18 November 2023. This is the reason why the FIR was registered only under IPC Sections, that too in respect of Sections, 324, 323, 143, 147, 148, 149, 504 and 506 of the Indian Penal Code.

4) It appears that subsequently offences under the SCST Act came to be added after disclosure by the Complainant about her caste. The submissions made before the learned Special Judge vide note dated 20 November 2023 submitted by the Investigating Officer would reflect allegations of caste based abuses which are absent in the initial FIR statement.

5) It also appears that qua Accused No.1-Ramzan Mulla, additional offences under Sections 354 and 354D of the IPC, as well as Section 3(1)(w)(i)(ii) are also added. So far as the present Appellant is concerned, the said allegations do not pertain to him.

6) It appears that Accused Nos.1 to 3 were arrested and have been released on bail. The Appellant has been on interim protection granted by this Court on 17 April 2024.

7) On account of absence of any caste based utterances in the initial FIR statement, *prima-facie* case is not made out under the provisions of SCST Act and therefore bar under Sections 18 or 18A would not apply. In that view of the matter, interim protection granted in favour of the Appellant deserves to be made absolute. Accordingly, I proceed to pass the following order :

(i) Order dated 22 March 2024 passed by the learned Special Judge is set aside.

(ii) Interim protection granted in favour of the Appellant on 17 April 2024 is made absolute.

(iii) Appellant shall co-operate with the Investigating Officer in conduct of further investigations, if any.

(iv) Appellant shall attend each date of hearing before the Trial Court, unless exempted.

(v) Appellant shall not contact directly or indirectly the Complainant or any witnesses associated with the case nor shall tamper with the evidence.

8) With the above directions, the Appeal is **allowed and disposed of.**

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[SANDEEP V. MARNE, J.]