

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**CRIMINAL APPELLATE JURISDICTION****CRIMINAL APPEAL NO.770 OF 2024****Samadhan Balasaheb Patil****....Appellant****V/s.****The State of Maharashtra and
Anr.****....Respondents****Mr. Jaydeep D. Mane** *(through VC) for the Appellant.***Ms Rashmi S. Tendulkar**, *APP for Respondent No.1-State.***Mr. Ritesh M. Thobde**, *(appointed Advocate) for Respondent No.2**Mr. V.K. Thite, HC, Mohol Police Station, Solapur, present.***CORAM : SANDEEP V. MARNE, J.****DATED : 11 November 2024.****P.C.:**

1) The Appellant has filed this Appeal under the provisions of Section 14-A of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 (**SCST Act**) challenging order dated 15 July 2024 passed by the learned Additional Sessions Judge, Solapur, rejecting the application for pre-arrest bail in connection with C.R. No.109 of 2024 registered with Kamati Police Station, District-Solapur, for the offences punishable under Sections 327, 333, 504 and 506 of the Indian Penal Code and Sections 3(2)(va), 3(1)(r) and Section 3(1)(s) of the SCST Act.

2) I have heard Mr. Mane, the learned counsel appearing for the Appellant, Ms Tendulkar, the learned APP for Respondent No.1-

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State and Mr. Ritesh Thobde, the learned counsel appointed by the Court to represent Respondent No.2.

3) Perusal of the FIR statement would prima facie indicate that the dispute between Complainant and the Appellant is over the use of land of the Complainant for accessing the river for extraction of sand. It appears that the Appellant was using the land of Complainant for entering into the river for extraction of sand and the Complainant had raised objection thereto. The incident has essentially occurred on account of this dispute between the parties. It appears that during pendency of the application for anticipatory bail, the Appellant was on interim protection granted by the learned Sessions Judge, which has been continued by this Court by order dated 26 July 2024.

4) Mr. Mane, on taking instructions would make a statement that Appellant would not only appear before the Investigating Officer for completion of investigations but he shall not use the land of the Complainant for any purposes including entry into the river for sand extraction and that he shall also not enter the village of the Complainant during pendency of the trial. This in my view sufficiently protects the interest of the Complainant. In that view of the matter Appellant deserves to be granted anticipatory bail. So far as the allegations of caste-based utterances are concerned, it appears that there are some contradictions between the police statement of witness-Mr. Ibrahim Shaikh and the affidavit executed by him before the Judicial Magistrate on 21 May 2024. In that affidavit the witness has denied any altercation, abusing or assault by the Appellant. Similar is the position with regard to affidavit allegedly executed by another witness- Mr. Audumbar Dattatray

Takmoge. It therefore becomes difficult to believe at this stage that any caste-based utterances are actually made by the Appellant. Therefore, bar under Section 18 of the SCST Act would not apply to the present case.

5) Ms Tendulkar has highlighted two antecedents against the Appellant bearing C.R. No.615 of 2019 and C.R. No.276 of 2020. Copy of the FIR in C.R. No.615 of 2019 is not produced. However, perusal of the FIR in C.R. No. 276 of 2020 would indicate that the same is in connection with allegation of illegal transportation of the sand. In that view of the matter, said antecedents cannot be a ground for denying anticipatory bail to the Appellant. I accordingly proceed to pass the following order:-

(a) Order dated 15 July 2024 passed by the learned Additional Sessions Judge, Solapur, is set aside.

(b) In the event of arrest of the Appellant in connection with C.R. No.109 of 2024 registered with Kamati Police Station, District-Solapur, for the offences punishable under Sections 327, 333, 504 and 506 of the Indian Penal Code and Sections 3(2)(va), 3(1)(r) and Section 3(1)(s) of the SCST Act, he shall be released on bail furnishing PR bonds in the sum of Rs.25,000/- with one or two solvent sureties in the like amount, subject to following conditions:-

(i) The appellant shall not enter upon the land of the Complainant for any purpose including the purpose of entry into the river for extraction of sand.

(ii) Appellant shall not enter village- Vadadegaon, Taluka-Mohol, during pendency of the trial.

- (iii) The Appellant shall not contact the Complainant or any witnesses associated with the case nor shall tamper with the evidence.
 - (iv) The Appellant shall remain present before the Investigating Officer on 25, 26 and 27 November 2024 between 11.00 a.m. to 2.00 p.m. and shall co-operate with the completion of the investigations.
 - (v) The Appellant shall attend each and every date of hearing before the Trial Court unless exempted from personal appearance.
- 6) With the above directions, the appeal is allowed and disposed of.

[SANDEEP V. MARNE, J.]