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

CRIMINAL APPEAL NO.995 OF 2023

SANGITA SUNIL DANANE

..APPELLANT

VS.

THE STATE OF MAHARASHTRA AND ANR.

..RESPONDENTS

Adv. Nagesh Y. Chavan for the appellant.

Ms. Megha S. Bajoria, APP for the State.

Adv. Ramdas Shelke for respondent No.2.

CORAM : M. S. KARNIK, J.

DATE : MARCH 15, 2024

P.C. :

1. Heard learned counsel for the appellant, learned APP for the State and learned counsel for respondent No.2.

2. This is an appeal challenging an order passed by the District and Additional Sessions Judge-2, Sangli dated 17.06.2023 allowing an application made by the respondent No.2 for anticipatory bail. Learned counsel for the appellant submitted that the impugned order ought to be set aside. It is submitted that learned trial Court has not considered the effect of bar of Section 18 of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 ("Atrocities Act" for short). It is his submission that in view

of the specific allegations and abuses in the name of caste the bar under Section 18 of the Atrocities Act is clearly attracted. Learned counsel for the appellant invited my attention to the findings of the trial Court and also the allegations made in the FIR. It is submitted that not only did the accused not honour the agreement but has abused the complainant in the name of caste.

3. I have carefully perused the materials on record. Paragraph 8, 9, 10 and 11 of the order dated 17.06.2023 passed by the trial Court read thus :-

"8. While considering the arguments of all advocates, after perusal of anticipatory bail application, say filed by investigation officer, perusal of case laws cited by both sides, the first question arises in this bail application, whether the anticipatory bail application is maintainable. While considering this point the Hon'ble Supreme Court held in case of Prithviraj Chavan Vs. Union of India : AIR 2020 Supreme Court 1036, a three Judge Bench of the Apex Court while upholding the validity of Section 18-A has reiterated that the provisions of section 438 of Cr.P.C. shall not apply to the case under the prevention of Atrocities Act. However, if the complaint does not make out for prima facie case for applicability of provisions of the Act the bar created under Section 18 and 18-A shall not apply.

9. In present case in my hand facts are very much clear that complainant and accused are well educated persons in field of Pharmacy. Both the persons came with the agreement related to the said business of Shweta Medicine Shop since 09.07.2019. They executed the notarized agreement on 10.07.2019. The complainant executed

power of attorney in favour of the applicant on 03.01.2020. Subsequently complainant sent notice to applicant/accused for cancellation of use of license. There was conflict between them in view of business transaction and the complaint between them under the Negotiable Instruments Act was pending at Judicial Magistrate First Class, Jaysingpur in Summary Criminal Case No.412/2020 and Summary Criminal Case No.261/2023. It shows that both relations became strained and conflicting. While perusal of the F.I.R. the complainant narrated the incidence related to the allegation on the basis of abuse on the caste. Lastly, the incidence was narrated on 15.07.2022 and complaint is lodged on 27.04.2023. There is sufficient delay for lodging the complaint. While perusal of the F.I.R. the allegation stated by the complainant against applicant/accused have not accepted as insulting on the basis of caste. After sending notice on 15.07.2022 the relation between them became so strained and the F.I.R. is lodged against the applicant. Therefore the allegation against applicant/accused by complainant prima facie shows it is after thought with intent to get benefit of the S.C.S.T. Act to their business transaction. Therefore, it is a malafide intention.

10. While considering the case laws cited by advocate of the applicant the Hon'ble Supreme Court and Hon'ble High Court have held in different cases, in this circumstances bail application under Section 18 and 18(A) is not prohibited and it is maintainable. The section 18 and section 18(A) is not applicable to the said bail application. In present case, while considering the entire documents, both the complainant and applicant/accused are educated and they are having intention to take the benefit of Atrocities Act for their business. Therefore, they are alleging against each other on abuse on caste. Therefore, the said abuse on the caste became doubtful. In these circumstances, section 18 and section 18(A) of S.C.S.T. Act is not applicable to present bail application. The present bail application is maintainable.

11. While considering the merit of the case discussed as above except oral allegations against each other there is no any incidence took place between them related to the

quarrel of assault or physical touch, etc. Only threatening to each other punishable under sections 504, 506 of I.P.C. is applied to this present bail application. Therefore present bail application is maintainable and considerable on merit."

4. I see no error in the observations of the trial Court. There is a delay in registering the FIR. Further, the trial Court observed that proceedings are filed under Section 138 of the Negotiable Instrument Act by the accused whereafter the complaint came to be made by the appellant. There is no reason to interfere with the impugned order allowing the application for anticipatory bail.

5. If a request is made before the trial Court for expediting the trial by the complainant, the trial Court may consider this request depending on its calendar. It is further made clear that the observations made by the trial Court as well as this Court are obviously prima facie in nature and the trial Court shall proceed with the trial on its merits and in accordance with law without being influenced by any of the observations.

6. The appeal is rejected and disposed of accordingly.

(M. S. KARNIK, J.)