

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO. 1067 OF 2024

Latika Dhondiram Bandal And Ors.

... Appellants

Versus

The State of Maharashtra And Anr.

... Respondents

Mr. Laxman Kalel *for the Appellants.*

Ms. Rashmi S. Tendulkar, *APP for Respondent No.1-State.*

Mr. Ghansham Jadhav *for Respondent No.2.*

CORAM : SANDEEP V. MARNE, J.

DATE : 27 NOVEMBER 2024.

P.C. :

1) This is an Appeal filed under the provisions of Section 14-A of the Scheduled Caste & Scheduled Tribes (Prevention of Atrocities) Act, 1989 (**SC & ST Act**) challenging the order dated 11 September 2024 passed by the learned Special Judge, Pandharpur, rejecting the application filed by the Appellants for pre-arrest bail under Section 482 of the Bhartiya Nagrik Surksha Sahita (**BNSS**) in connection with Crime No. 281 of 2024 registered with Pandharpur Gramin Police Station for the offences under Sections 74, 76, 119(1), 118(1), 3(5) and 352 of BNS and Sections 3(1)(w)(i), 3(1)(w)(ii), 3(2) and 3(v) of the SC and ST Act.

2) I have heard Mr. Kalel, the learned counsel appearing for the Appellants, Ms. Tendulkar, the learned APP appearing for Respondent No.1-State and Mr. Jadhav, the learned counsel appearing for Respondent No.2.

3) While granting interim protection in favour of the Appellants, this Court made following observations in paragraphs 2 of the Order dated 9 October 2024.

"2) *Prima facie*, it appears that there are no caste-based utterances in the FIR statement. The main allegations are against Dhondiram with regard to the outraging modesty of Complainant's wife. The present appeal is filed by Dhondiram's wife and two sons in respect of allegation of Appellant No.1 Latika assaulting first informant's wife and Appellant Nos. 2 and 3 assaulting first informant's brother Sahadev. There appears to be dispute between the parties about boundary of the land. It also appears that a cross FIR registered against the first informant, his wife and brother. Since *prima facie* case of offences under SC & ST Act is not made out, the bar under Section 18 would not apply. In that view of the matter, Appellants deserve to be granted interim protection till Respondent No.2 puts in his appearance."

4) Perusal of the FIR statement does not show any caste based utterances against the Appellants. So far as the allegations of assault being committed on the Complainant's wife and brother are concerned, the BNS Sections are bailable. It therefore becomes difficult to hold at this juncture that any *prima facie* case of commission of offence under SC & ST Act is made out. Therefore, bar under provisions of Section 18 would not apply. The learned counsel for the Appellant would submit that the Appellants have appeared before the Investigating Officer as directed by this Court and have co-operated with conduct of investigations. Considering the nature of allegations,

custodial interrogation of the Appellants is not warranted. Therefore, the interim protection granted in favour of the Appellants deserves to be made absolute.

5) I accordingly proceed to pass the following order:

a) Order dated 11 September 2024 passed by the learned Sessions Judge, Pandharpur is set aside.

b) Interim protection granted in favour of the Appellants by Order dated 9 October 2024 is made absolute.

c) Appellants shall attend each date of hearing before the Trial Court regularly unless exempted from personal appearance.

d) The Appellants shall not contact the complainant or any other witnesses associated with the case nor shall tamper with the evidence.

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

[SANDEEP V. MARNE, J.]