

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**CRIMINAL APPELLATE JURISDICTION****CRIMINAL APPEAL NO.1175 OF 2024**

1. Kailas Tatoba Lad
2. Suresh Mahadev Mirje (Ingale)

...Appellants

V/s.

The State of Maharashtra and Anr.

...Respondents

Mr. D.V. Sutar with Kiran Kulkarni with Ms. Anjali Shaw, Ms. Latika Kabad and Mr. Deepak Jain for the Appellants.

Ms. Shilpa K. Gajare-Dhumal, APP for Respondent No.1-State.

Mr. Sagar B. Pawar, PSI, Kurduwadi Police Station, Kolhapur, present.

CORAM : SANDEEP V. MARNE, J.

Dated : 25 October 2024.

P.C. :

1. This is an appeal filed under the provisions of Section 14-A of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocity) Act, 1989 (**SCST Act**) challenging order dated 19 October 2024 passed by the learned Additinal Sessions Judge, Jaysingpur, rejecting the application filed by the Appellants for grant of pre-arrest bail in connection with Crime No.320 of 2024 for the offences punishable under Section 482 of the Bhartiya Nyay Sanhita, 2023 (**BNS**) and Sections 3(1)(r), 3(1)(s), 3(2)(va) of the SCST Act.

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2. I have heard Mr. Sutar, the learned counsel for the Appellants and Ms. Gajare-Dhumal, the learned APP for Respondent -State.

3. Perusal of the FIR prima facie shows that incident is alleged on 8 September 2024 whereas the FIR is lodged on 28 September 2024. Considering the nature of incident and the allegations levelled in the FIR statement, delay of 10 long days in lodging the FIR assumes importance.

4. So far as offence under Sections 3(1)(r) and 3(1)(s) of the SCST Act is concerned, prima facie there is nothing on record to indicate that the offences are committed with intention of humiliating the caste of the Complainant. It appears that the Complainant himself committed the blunder of filling diesel in the car instead of petrol. The allegation in the FIR appears to be a reaction on the mistake committed by the Complainant.

5. Considering the above position, in my view interim protection deserves to be granted in favour of the Appellants. Prima facie case of offence under the provisions of SCST Act is not made out thereby making bar under the provisions of Section 18 of the SCST act inapplicable.

6. Issue notice to the Respondent No.2 through Investigating Officer, returnable on **26 November 2024**. In the meantime, Investigating Officer shall record statement of Respondent No.2 as to whether he is desirous of engaging private Advocate or seeks to avail

the services of Legal Aid Panel Advocate. The statement shall be produced before the Court on the next date of hearing.

7. In the meantime, in the event of arrest of the Appellants in connection with Crime No.320 of 2024 for the offences punishable under Section 482 of BNS and Sections 3(1)(r), 3(1)(s), 3(2)(va) of the SCST Act, they shall be released on interim bail on furnishing PR bonds in the sum of Rs.25,000/- each with one or two solvent sureties in the like amount.

8. The Appellants shall remain present before the Investigating Officer on 12 November 2024 and 13 November 2024 between 11.00 a.m. to 2.00 p.m and shall cooperate with the conduct of investigation.

9. Appellants shall not contact the informant or any other witnesses acquainted with the facts of the case nor shall tamper with the evidence either directly or indirectly.

10. Appellants shall furnish their identity and address proof and of their two blood relatives while furnishing sureties.

[SANDEEP V. MARNE, J.]