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

CRIMINAL APPEAL NO.36 OF 2024

SANTOSHKUMAR GHERAU JAISWAL ..APPELLANT

VS.

THE STATE OF MAHARASHTRA AND ANR. ..RESPONDENTS

Adv. Dheeraj Panchange for the appellant.

Mr. B. B. Kulkarni, APP for the State.

Adv. Veerdhawal Deshmukh for respondent No.2.

PSI Pankaj Patil, Shahapur Police Station, Thane Rural.

CORAM : M. S. KARNIK, J.

DATE : FEBRUARY 29, 2024.

P.C. :

1. Heard learned counsel for the appellant.
2. On 17.01.2024 this Court passed the following order while granting interim protection to the appellant.

"2. This is an appeal for pre-arrest bail in connection with C.R. No.I-75 of 2023 registered with Shahapur Police Station, Thane Rural on 04.03.2023 for the offences punishable under Section 324, 325, 504, 506 read with 34 of the Indian Penal Code (hereafter "IPC", for short) and under Sections 3(1)(r)(s) and 3(2)(va) of Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 (hereafter "Atrocities Act", for short).

3. The appellant is the owner of four shops. The complainant is carrying on the business of selling vegetables from the shop adjacent to that of the appellant. The appellant has rented one of his shop to Ms.'G' who is

selling vegetables from the said shop. It is the allegation in the complaint that the appellant as well as Ms.'G' were upset as the complainant being a competitor is affecting the business of Ms.'G'. Over this dispute it is alleged by the complainant that she was assaulted and abused in the name of her caste on 02.03.2023 at around 4.30 p.m. There is a complaint registered by Ms.'G' on 04.03.2023 against the present complainant for the offences punishable under Sections 354, 504, 506, 509 of the IPC. It is alleged therein that the complainant herein committed an offence which is punishable under Section 354 of the IPC. There are cross cases.

4. Learned counsel for the appellant submitted that though the alleged incident is dated 02.03.2023, the FIR is registered on 04.03.2023. There is a delay in registering the FIR."

3. I have heard learned APP and learned counsel for respondent No.2 who opposed the appeal. It is submitted that the appellant has abused the complainant in the name of caste. A perusal of the FIR would indicate that there is no reference to any abuse in the name of caste. The charge-sheet has been filed. There is nothing on record to indicate that any of the independent witnesses have stated about the appellant having abused the complainant in the name of caste. The appellant has co-operated with the investigation. In my opinion the bar under Section 18 of the Atrocities Act will not be attracted in the present facts. The interim order needs to be confirmed. Hence, the following order :-

ORDER

- (a) The appeal is allowed.
- (b) In the event of arrest of the appellant in C.R. No.I-75 of 2023 registered with Shahapur Police Station, Thane Rural shall be released on bail on his furnishing P.R. bond of Rs.15,000/- with one or more sureties in the like amount.
- (c) The appellant shall report to the Investigating Officer as and when called.

4. The appeal is disposed of.

5. I express my gratitude for the able assistance rendered by Advocate Veerdhawal Deshmukh who appeared on behalf of the respondent No.2. His engagement be regularised by the Maharashtra State Legal Services Authority.

(M. S. KARNIK, J.)