



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

CRIMINAL APPEAL NO. 196 OF 2020

JALINDER MURLIDHAR NAIK AND ANR. .. APPELLANTS

VS.

THE STATE OF MAHARASHTRA AND ANR. ..RESPONDENTS

**WITH
ANTICIPATORY BAIL APPLICATION ST.NO.5320 OF 2020**

JALINDER MURLIDHAR NAIK AND ANR. .. APPLICANTS

VS

THE STATE OF MAHARASHTRA .. RESPONDENT

Mr.Rohan Hogle i/b Mr.Anshul Sontakke, for the appellants/applicants.

Ms.Priyanka H. Chavan, for Respondent No.2.

Smt. Sangeeta D. Shinde, APP for the State.

CORAM : M. S. KARNIK, J.

DATE : MARCH 6, 2024

P.C. :

1. Heard learned counsel for the appellants, learned counsel for the respondent no.2 and learned APP.

2. On 08/05/2020, this Court had passed the following order granting interim protection.

“By this appeal, the appellant seeks pre-arrest bail in connection with C.R. No. I-24/2020 registered with the Narpoli Police Station, Thane for the alleged offence punishable under Section 323 of the Indian Penal Code; under Section 3(1) (h) of the Scheduled Castes and Scheduled Tribes

(Prevention of Atrocities) Act and under Sections 16, 17 and 18 of the Bonded Labour System (Abolition) Act.

3. Learned counsel for the appellant states that pursuant to the order dated 18th February 2020 passed by this Court, the respondent No.2 has been served by private notice and an affidavit to that effect is filed. It appears from the order dated 12th March 2020 that spare copies were not filed, pursuant to which, time was granted to file spare copies. Learned counsel for the appellant states that in view of the lock-down, spare copies could not be supplied, pursuant to which, court notice could not be issued to respondent No. 2.

4. Since filing of spare copies at this juncture is not possible, the same to be filed once office work is restored, so as to enable the appellants to supply spare copies for issuance of notice to respondent No.2.

5. Learned counsel for the appellant submits that the allegations as against the appellants are false and baseless. He submits that the appellant No. 2 is a relative of the complainant and belonging to the same caste as the complainant. Whereas, the appellant No. 1 is the owner of a brick-kiln, where the complainant and others were working. He submits that neither the provisions of the Bonded Labour System (Abolition) Act, nor the provisions of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, are applicable in the facts of the present case. He submits that the incident is an outcome of an altercation, which took place between the appellant No. 1 due to the loading of bricks in the truck, resulting in the applicant No. 1 slapping the complainant's husband. He submits that there are no allegations that the complainant was threatened or any abusive language was used in the name of the caste."

3. Learned APP as well as learned counsel for the respondent no.2 opposed the appeal and submitted that the

complainant was working in brick-klin belonging to the appellant no.1 as a bonded labour and hence, section 3(1)(h) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 is clearly attracted. A perusal of the FIR would reveal that the complainants refusal to do the work which the appellant no.1 asked him to do resulted in the appellant no.1 slapping the complainant. There are no abuses in the name of caste. Learned counsel for the respondent no.2 contended that advance was paid to the complainant by the appellant no.1. Hence, the case clearly falls within the meaning of section 3(1)(h) of the Atrocities Act. It is pertinent to note that the appellant no.2 is related to the complainant. They belong to the same caste. The appellant no.2 was working as a Mukadam at the brick-klin owned by the appellant no.1. The appellant no. 2 was the one who had engaged labourers including the complainant at the brick-klin. In my opinion in the facts of this case the bar under section 18 of the Atrocities Act would not apply. The interim order passed by this Court is accordingly confirmed. Hence, the following order.

ORDER

(i) The appeal is allowed.

(ii) In the event of arrest, the appellants be enlarged on bail, on executing PR Bond in the sum of Rs. 10,000/- each with one or two sureties in the like amount;

(iii) The appellants shall attend the concerned Police Station as and when called;

(iii) The appellants shall not tamper with the evidence or attempt to influence or contact the complainant, witnesses or any person concerned with the case.

4. I appreciate the valuable assistance rendered by Ms. Priyanka H. Chavan, the learned Advocate, who appeared on behalf of respondent No.2 at my request in this proceeding and assisted the Court. Her engagement be regularized by the Legal Services Authority.

5. The anticipatory bail application, consequently does not survive and is disposed of.

(M. S. KARNIK, J.)