



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

CRIMINAL APPEAL NO. 108 OF 2024

KUMARI CHAITRA JAYWANT PATIL .. APPELLANT
VS.

1. THE STATE OF MAHARASHTRA

2. ADVOCATE SMT. MAMTA

SHANKAR JADHAV

..RESPONDENTS

Mr.Harekrishna Mishra a/w Mr.Kailash Rathod, for the appellant.

Ms.Sangita D. Shinde, APP for the State.

Mr. Pawan Mali, for Respondent No.2.

PSI- Mr.Ramesh Sangate, ACP Panvel Division present.

CORAM : M. S. KARNIK, J.

DATE : MARCH 5, 2024

P.C. :

1. Heard learned counsel for the appellant and learned APP for the State.

2. This is an appeal for quashing and setting aside the impugned order dated 05/01/2024 passed by the Additional Sessions Judge, Panvel below Exhibit 1 in Criminal Bail Application No. 1163 of 2023 rejecting the regular bail of the appellant in respect of the offence punishable under sections 153A, 153B, 295-A, 504, 506 of the Indian Penal

Code ("IPC", for short) and under sections 3(1)(r), 3(1)(u), 3(1)(v), 3(1)(s) and 3(2)(va) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 (for short, "the Atrocities Act") registered on 30/09/2023 vide C.R. No.241 of 2023 of with Navin Panvel police station. The appellant was arrested on 10/12/2023

3. Learned APP vehemently opposed the appeal. It is submitted that the accusations against the appellant are very serious. Respondent no.2 is the complainant. The investigating officer was asked to intimate the respondent no.2 the next date of hearing. Learned advocate for the appellant submitted that private notice has been served and affidavit of service dated 26/02/2024 has been filed. On 27/02/2024, this Court passed the following order.

" None appears for respondent No.2.

2. On 07.02.2024 this Court passed the following order :-

1. Issue notice to the respondent no.2, returnable on 16/02/2024.

2. The investigating officer to intimate the respondent no.2 the next date of hearing. If despite intimation of the investigating officer, the respondent no.2 does not appear, this Court may be constrained to proceed with the hearing of the appeal by appointing an advocate from the panel of the Maharashtra State Legal Services Authority."

3. Accordingly, by a report dated 24.02.2024 the Investigating Officer has stated that respondent No.2 has been intimated.

4. Only by way of indulgence, list the appeal on 29.02.2024.”

4. Then on 29/02/2024, following order came to be passed by this Court.

“1. This is an appeal for regular bail. The investigating officer has twice intimated the complainant about the hearing of this appeal. Even affidavit of service has been filed by the appellant. In this view of the matter, I find it appropriate to appoint Mr.Pawan Mali to represent the complainant and assist the Court.

2. Stand over to 05/03/2024 at 2.30 p.m.”

5. Learned APP submitted that the investigating officer has on 04/03/2024 intimated and informed the respondent no.2 that appeal is listed for hearing today. Considering the serious nature of the accusations, I had requested Mr.Pawan Mali to assist this Court and make his submissions in support of the case of respondent no.2. Mr.Mali vehemently opposed the appeal. It is submitted that the accusations against the appellant are serious. It is submitted that utterances in the video made by the appellant clearly makes out a case under the various provisions of the Atrocities Act

and IPC for which the offence is registered against the appellant. It is further submitted that the appellant tried to destroy the evidence and has not co-operated with the investigation.

6. The basis for filing the FIR dated 30/09/2023 by the respondent no.2 is that she noticed one video circulated on face-book. In the said video, derogatory utterances were made constituting offence under the aforesaid sections of the Atrocities Act and IPC. The accusations are no doubt serious and the appellant will face the consequences if found guilty during trial. It is one of the contention of Shri Mali and learned APP that as the charge-sheet is filed, the appellant must approach the trial Court for bail. I am not inclined to adopt this course in the facts and circumstances of this case and therefore proceed to hear the appeal. The appellant is a woman. The investigation is complete. The charge-sheet has been filed. There are no criminal antecedents reported against the appellant. The appellant is in pre-trial custody for almost 87 days. It is the contention of the learned counsel for the appellant that the offence is registered on the basis of tampered and cropped

video. These are the matters which will obviously be considered by the trial Court at the time of trial. The appellant does not appear to be a flight risk. Any further custody will only be by way of a pre-trial punishment. The trial is unlikely to conclude soon. Hence, the following order :-

ORDER

- (a) The appeal is allowed.
- (b) The impugned order dated 05/01/2024 passed by the Additional Sessions Judge, Panvel below Exhibit 1 in Criminal Bail Application No. 1163 of 2023 is quashed and set aside.
- (c) The appellant-Kumari Chaitra Jaywant Patil in connection with C.R. No.241 of 2023 registered with New Panvel police station, Panvel shall be released on bail on her furnishing P.R. Bond of Rs.15,000/- with one or more sureties in the like amount.
- (d) The appellant is permitted to furnish cash bail surety in the sum of Rs. 15,000/- for a period of 6 weeks in lieu of surety.
- (e) The appellant shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade her from

disclosing the facts to Court or any Police Officer. The appellant shall not tamper with evidence.

(f) On being released on bail, the appellant shall furnish her contact number and residential address to the Investigating Officer and shall keep him updated, in case there is any change.

(g) The appellant shall attend the trial regularly. The appellant shall co-operate with the trial Court and shall not seek unnecessary adjournments.

7. The appeal is disposed of.

8. I appreciate the valuable assistance rendered by Mr. Pawan Mali, the learned Advocate, who appeared on behalf of respondent No.2 at my request in this proceeding and assisted this Court. His engagement be regularized by the Maharashtra State Legal Services Authority.

(M. S. KARNIK, J.)