



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

CRIMINAL APPEAL NO. 478 OF 2023

PARVATIBAI VAMANRAO KUTWAL ..APPELLANT

VS.

THE STATE OF MAHARASHTRA AND
ANR.

..RESPONDENTS

Adv. Sushant Prabhune (through V.C.) a/w Adv. Mamta
Pandey for the Appellant.

Ms. Meghna Gowalani for Respondent No.2.

Ms. Megha S. Bajoria, APP for the State.

CORAM : M. S. KARNIK, J.

DATE : FEBRUARY 28, 2024

P.C. :

1. Heard learned counsel for the appellant, learned
counsel for respondent No.2 and learned APP for the State.

2. Learned APP as well as learned counsel for respondent
No.2 opposed the appeal. It is submitted that the
accusations are serious in nature.

3. My attention is invited to the First Information Report
(FIR). Suffice it to mention that by interim order dated
24/04/2023, this Court had granted interim protection to
the appellant. The relevant portion of the order dated

24/04/2023 is reproduced for ease of convenience, the same reads thus:

"2. By this appeal, preferred under Section 14A of the The Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 (for short, "SC/ST" Act) the appellant seeks pre-arrest bail in connection with C.R.No.176 of 2022 registered with Dound Police Station, Pune, for the offence punishable under Sections 376(2)(N) and Section 504, read with 34 of the Indian Penal Code, 1860, and Section 3(2)(va) of the SC/ST Act.

3. Learned counsel for the appellant submits that the Appellant is 72 years old, and taking the case as it stands no offence as alleged is disclosed qua the appellant. He submits that the allegations as against the appellant are essentially under the SC/ST Act and that a perusal of the FIR would show that the said sections would not apply, inasmuch as alleged utterance with respect to the caste were not made in public place.

4. Issue notice to the Respondents, returnable on 20th June, 2023. Learned APP waives service of notice on behalf of the Respondent-State.

5. Hamdust permitted.

6. In addition to Court notice, the appellant to serve the Respondent No.2 by private notice and file affidavit of service before the next date.

7. Learned APP also assures to inform the respondent No.2 of the next date, through the concerned officer of the concerned Police Station. The concerned officer to take written instructions as to whether the respondent No.2 intends to engage an advocate of her own choice, or would want an advocate from the Legal Aid Panel, to espouse her cause. Learned APP to produce the statement before this Court on the next date.

8. Having regard to the submissions of the learned counsel for the appellant and having perused the FIR, prima facie, it appears that the bar of

Section 18 of SC/ST Act would not apply and accordingly, in the meantime, till the next date, the appellant is granted interim protection from arrest, on the following terms and conditions :-

ORDER

(i) In the event of the arrest, Appellant- Parvatibai Vamanrao Kutwal be enlarged on bail on furnishing P.R. Bond in the sum of Rs.15,000/- [Fifty Thousand], with one or two sureties in the like amount;

(ii) The Appellant shall report to the Investigating Officer of the concerned Police Station, as and when called."

4. Though it is urged by the learned APP and learned counsel for respondent No.2 that the bar under Section 18 of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989, will be attracted, in view of the accusations and having perused the FIR, I am satisfied that *prima facie*, the bar under Section 18 would not apply as the alleged abuse in respect of the caste was not in a public place.

5. Interim order, therefore, stands confirmed. The appeal is allowed.

6. In the event of the arrest, the appellant- Parvatibai Vamanrao Kutwal be enlarged on bail on furnishing P.R. Bond in the sum of Rs.15,000/- with one or more sureties in

the like amount.

7. The appellant shall report to the Investigating Officer of the concerned Police Station, as and when called.

8. I appreciate the valuable assistance rendered by Advocate Meghna Gowalani, who appeared on behalf of respondent No.2 in this proceeding. Her engagement may be regularized by the Maharashtra State Legal Services Authority.

9. The appeal stands disposed of in the above terms.

(M. S. KARNIK, J.)