



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

CRIMINAL APPEAL NO. 1429 OF 2023

Aslam Lalabhai Mulani

..Appellant

VS.

1. The State of Maharashtra

2. XYZ

..Respondents

Mr. Avinash Naikwadi, for the appellant.

Mr. Udayan Shah, for Respondent No.2.

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

Police Constable-Mr. N.A. Golande, Walchandnagar police station present.

CORAM : M. S. KARNIK, J.

DATE : JANUARY 23, 2024

ORAL JUDGMENT :

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

2. This is an appeal filed under section 14(A) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 (for short 'Atrocities Act') praying for anticipatory bail in connection with the C.R. No. 726 of 2023 registered with Walchand Nagar police station, Taluka-Indapur, District-Pune for the offence punishable under sections 354, 323, 504, 506, 34 of the Indian Penal Code,

1860 and under sections 3(r)(s), 3(2) of Atrocities Act.

3. The appellant is the accused no.1. There are in all 4 accused. It is the case of the prosecutrix that the appellant and the other accused are residing in the same area. The appellant is known to the prosecutrix. It is alleged by the prosecutrix that though she is a married lady, the appellant was insisting the prosecutrix that she call him on his mobile and meet her when her husband is away. The prosecutrix told about this incident to her husband. The husband of the prosecutrix therefore proceeded to question the appellant. The appellant was not found. The appellant's acquaintance, accused nos. 2 and 3 assaulted the husband of the prosecutrix. They abused him in the name of caste.

4. The allegation so far as the appellant is concerned is that he telephonically called the prosecutrix's husband and abused him in the name of caste. The trial Court in the impugned order recorded that the appellant has not used any abusive words of caste of the prosecutrix, however, considering the seriousness of the accusations, the application for bail was rejected.

5. Learned APP as well as Mr. Shah, learned counsel for

the complainant opposed the application. It is submitted that the accusations are serious and there are specific allegations about the caste based abuse.

6. As indicated earlier, so far as the appellant- accused no.1 is concerned, the only role attributed to the appellant relating to caste based abuse is that he contacted the husband of the prosecutrix on telephone and abused him. There are no independent witnesses to corroborate this. Moreover, it does not appear that the abuses are made in public view. The trial Court has also observed that there are no abuses in the name of caste qua the appellant. The allegations are mainly against accused nos. 2 and 3. In the facts and circumstances of this case, the appeal deserves to be allowed. Hence, the following order.

ORDER

- i) The appeal is allowed.
- ii) The impugned order is quashed and set aside.
- lii) In the event of arrest in connection with C.R. No. 726 of 2023 registered with Walchand Nagar police station, District-Pune Rural, the appellant- Aslam

Lalbhai Mulani, shall be released on bail on furnishing P.R. Bond of Rs. 15,000/- with one or two sureties in the like amount.

iv) Till filing of the charge-sheet, the appellant shall attend the investigating officer of the concerned police station as and when called and co-operate with the investigation.

v) After filing of the charge-sheet, the appellant shall attend the trial regularly.

7. The appeal is disposed of.

8. I appreciate the valuable assistance rendered by Mr. Udayan Shah, the learned Advocate, who appeared on behalf of respondent No.2 at my request in this proceeding and assisted the Court.

(M. S. KARNIK, J.)