

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPEAL NO. 174 OF 2024

Altaph Ahmed Shaikh

... **Appellant**

Versus

The State of Maharashtra & Anr.

... **Respondents**

Mr. Prashant S. Hagare *a/w Mr. Krishna Tarde for the Appellant.*

Mr. Ashok R. Metkar, *APP for Respondent No.1-State.*

Mr. Sumeet Shinde *appointed Advocate for Respondent No.2.*

Mr. Sachin Jamdade, *PC Walchandnagar Police Station, is present.*

CORAM : SANDEEP V. MARNE, J.

DATE : 18 SEPTEMBER 2024.

P.C. :

1) This Appeal is filed under provisions of 14-A of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 (**SC & ST Act**), challenging the Order dated 9 January 2024 passed by the Additional Sessions Judge, Baramati rejecting the application for Anticipatory Bail filed by the Appellant in connection with Crime Register No. 775 of 2023 registered with Walchandnagar Indapur Police Station, for offences punishable under Sections 307, 353, 341, 324, 323, 120(B), 504, 506, 143, 147, 148, 149 of Indian Penal

Code, 1860, Section 4(25) of Arms Act, Section 135 of Maharashtra Police Act and Sections 3(1)(r)(s), 3(2)(va), 6 of the SC & SC Act.

2) Heard Mr. Hagare, the learned counsel appearing for Appellant, Mr. Shinde, the learned counsel appearing for Respondent No. 2 and Mr. Metkari, the learned counsel appearing for Respondent No.1-State.

3) The Appellant is on interim protection granted by this Court vide order dated 22 February 2024. Paragraph 4 of the Order dated 22 February 2024 reads thus:

"4. The complainant is a Sarpanch of Gram Panchayat Anthurne. The incident is dated 20.10.2023 The FIR was registered on 21.10.2023. The allegation is that the appellant was annoyed with the Sarpanch as some structures which were put up by the appellant which according to the Sarpanch were encroachment, came to be removed. The appellant therefore went to the office of the complainant along with the other accused. There is a delay in registering the statement of the independent witness. The appellant and the other accused assaulted the brother of the complainant. There is a reference to the abuse in the name of caste. *Prima facie* it appears that there were some disputes between the complainant and the appellant. It is therefore contended that the possibility of false implication for the offence under the Atrocities Act cannot be ruled out."

4) This Court directed the Appellant to report before the Investigating Officer on 27 and 28 February 2024. The learned APP confirms that the Appellant has appeared before the Investigating Officer and has co-operated with investigations. Now chargesheet *qua* the present Appellant has also been filed. In that view of the matter,

custodial interrogation of the Appellant at this juncture does not appear to be necessary.

5) Perusal of the FIR statement would indicate the allegation of assault by use of sword is against accused Dipak Bhosale. So far as the other allegations of abuse and assault are concerned, the same are omnibus in nature without specifying any particular role in respect of the Appellant. Perusal of the injury certificate would indicate presence of simple injuries on the Complainant thereby raising doubts about the allegation of assault by use of sword. In my view, therefore, *prima facie* case for offences under provisions of SC & ST Act is not made out. Therefore, the interim protection granted in favour of the Appellant deserves to be made absolute.

6) Accordingly I proceed to pass the following order:

(i) Interim protection granted by this Court by Order dated 22 February 2024 is made absolute subject to following conditions :

(a) Appellant shall attend Trial Court regularly unless exempted from personal appearance.

(b) Appellant shall not pressurize the informant or any other witnesses acquainted with the facts of the case nor shall tamper with the evidence either directly or indirectly.

(c) The Appellant shall inform his latest place of residence and mobile contact number immediately after being released and/or

change of residence or mobile details, if any, from time to time to the Trial Court as well as to the concerned Police Station in writing.

(d) The Appellant shall cooperate with the completion of investigations by remaining present before the investigating officer as and when summoned.

7) With the above directions, Appeal is disposed of.

[SANDEEP V. MARNE, J.]