

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

CRIMINAL APPEAL NO.183 OF 2024

Pramod Bhaskar Adhikari

....Appellant

V/S

The State of Maharashtra & Anr.

....Respondents

Mr. Aadesh V. Konde-Deshmukh a/w Mr. Shekhar V. Mane *for the Appellant.*

Mr. Ashok Metkari, APP *for Respondent No.1/State.*

Ms. Manisha Devkar, *Appointed Advocate for Respondent No.2.*

Mr. L.J. Warkute, PSI, Shahapur, Thane (R) present in Court.

CORAM: SANDEEP V. MARNE, J.

DATE : 12 JUNE 2024.

P.C.:

1 This Appeal filed under section 14A of the Scheduled Caste and Scheduled Tribes (Prevention of Atrocities) Act (**SC & ST Act**) challenging the order dated 24 January 2024 passed by the Additional Sessions Judge, Kalyan rejecting the Application filed by the Appellant for grant of pre-arrest bail.

2 Admit. With consent of parties, Appeal is taken up for hearing.

3 Appellant is working on the post of Village Development Officer (Gram Vikas Adhikari) at village Asangaon. The prosecution story as reflected in the FIR is that on 8 December 2023 Respondent No.2 had visited the Gram Panchayat Office when the Appellant allegedly attempted

to establish physical intimacy with Respondent No.2. Respondent No.2 has apparently recorded the conversation between her and the Appellant.

4 I have heard Mr. Konde-Deshmukh, the learned counsel appearing for the Appellant. He would invite my attention to the fact that Respondent No.2 made telephonic call to Appellant on 12 December 2023 after the alleged incident thereby proving falsity in her complaint. He would submit that the villages including Respondent No.2 had earlier filed Complaint dated 7 November 2023 seeking transfer of the Appellant. He would place on record similar application dated 13 January 2023 signed by most of the same signatories by which transfer of the earlier Village Development Officer, Asangaon was sought. He would submit that the villagers are thus adopting various tactics in order to ensure transfer of undesirable Officer from the Village Panchayat. He would submit that the FIR is outcome of the said design adopted by the villagers. He would submit that the Appellant has co-operated with the Investigating Officer by remaining present for investigations in the police station on 7 March 2024, 11 March 2024 and 15 March 2024. He would therefore submit that Appeal be allowed by setting aside the impugned order of the Sessions Judge.

5 I have heard Ms. Devkar, the learned counsel appearing for the Respondent No.2 who has been appointed by this Court vide order dated 2 April 2024. She has taken me through the contents of the FIR as well as the statement of the second Respondent. Accordingly, Ms. Devkar submits that the statement of the Respondent No.2 prima facie discloses commission of offences under the provisions of SC & ST Act. That the anticipatory bail otherwise cannot be granted in respect of the offences

involving SC & ST Act. Ms. Devkar would also place reliance on the Complaint dated 7 November 2023 signed by various villagers. According to her, the Appellate has misbehaved with other persons also and that the Complaint dated 7 November 2023 also indicate indecent behaviour and conversation by the Appellant with women employees and women members of the Panchayat. She would submit that the investigations into the crime have not been completed on account of repeated non-co-operation on the part of the Appellant. She would therefore pray for dismissal of the Appeal.

6 I have also heard Mr. Metkari, learned APP, who would oppose the Appeal submitting that Appellant is not co-operating with investigations.

7 I have considered submissions canvassed by the learned counsel appearing for the parties and I have gone through the relevant records. Mr. Konde-Deshmukh has particularly placed reliance on phone call made by Respondent No.2 to the Appellant on 12 December 2023 i.e. after the alleged incident of 8 December 2023. According to him, if the alleged incident of 8 December 2023 had indeed take place, Respondent No.2 would not have voluntarily given phone call to the Appellant on 12 December 2023. The said phone call is sought to be explained by Ms. Devkar by contending that very short conversation has taken place on 12 December 2023 that too for the purpose of making an enquiry about the concerned marriage certificate. She would submit that since Respondent No.2 is elected member of the Panchayat, it is not unnatural for interact with the Appellant with regard to work of villagers.

8 I have also gone through the transcript of the telephonic conversation which has allegedly taken place between the Appellant and Respondent No.2. There is nothing in the statement of the Respondent No.2 or in the transcript of the said conversation to indicate that Appellant has referred to the caste of Respondent No.2 in any manner. It appears that the Panchayat members and the villagers are apparently not happy with the Appellant and had applied for his transfer on 7 November 2023 that is before the date of alleged incident. In my view, there is no prima facie material to attract offences under SC & ST Act and therefore custodial interrogation of Appellant is not warranted. Appellant has apparently remained present for investigations on 7 March 2024, 11 March 2024 and 15 March 2024. If further investigations need to be conducted, the Appellant is willing to co-operate with the same. Mr. Konde-Deshmukh has submitted that the Appellant is willing to present himself for investigations as and when called by the concerned Investigating Officer. In that view of the matter, the interim protection granted in favour of the Appellant deserves to be made absolute. I accordingly proceed to pass the following order:

ORDER

- i) The Appeal is allowed and the order dated 24 January 2024 passed by the Additional Sessions Judge, Kalyan is set aside.
- ii) Interim protection granted in favour of Appellant by order dated 27 February 2024 is made absolute.
- iii) The Appellant shall remain present before the concerned Investigating Officer on 18 June 2024, 19 June 2024 and 20 June 2024

between 11 a.m. to 2 p.m. and on such further dates as may be required by the Investigating Officer.

iv) The Appellant shall not contact Respondent No.2 in any manner and shall not pressurize either Respondent no.2 or witnesses associated with the case as directly or indirectly.

9 With the above directions, the Appeal is allowed and disposed of.

(SANDEEP V. MARNE, J.)

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signed by
SUDARSHAN
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KATKAM
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