

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO. 230 OF 2024

Balvinder Ramgadia And Ors.

... Appellants

Versus

The State of Maharashtra And Anr.

... Respondents

Mr. Karim Pathan a/w Fazlur Rahman Shaikh a/w S. I. Turkey for the Appellants.

Ms. Shilpa G. Talhar, App for the Respondent No.1 - State.

Mr. Manish Gaikwad a/w Mohammed Naved I Mulla for Respondent No. 2.

Mr. Dattatray Dhole, ACP, Dindoshi Division is present.

Mr. Shivaji Jadhav, PI Aarey Police Station is present.

CORAM : SANDEEP V. MARNE, J.

DATE : 5 AUGUST 2024.

P.C. :

1) This Appeal is filed under provisions of Section 14-A of The Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 (**SC & ST Act**) challenging the Order dated 29 February 2024 passed by the Additional Sessions Judge, Dindoshi rejecting Application filed by Appellants seeking pre-arrest bail in connection with C.R. No. 14 of 2024 registered with Aarey Police Station for offence punishable under Section 420 read with Section 34 of the Indian Penal Code and Section 3(1)(r) and 3(1)(s) of SC & ST Act.

2) The Appellants are granted interim protection by this Court by Order dated 6 March 2024.

3) I have heard Mr. Pathan the learned counsel appearing for Appellants, Mr. Gaikwad the learned counsel appearing for Respondent No. 2 - Complainant and Ms. Shilpa Talhar the learned APP appearing for Respondent No.1 - State.

4) Perusal of the F.I.R. would indicate that the same appears to have been lodged on account of failed love relationship between the Complainant and the Appellant No. 2. It is Complainant's case that Appellant No. 2 had agreed to marry him. Complainant further alleges that the Appellants have taken several amounts totaling Rs. 13,00,768/- from him and have cheated him by not refunding the same. However, various incidents quoted in the F.I.R. would indicate that the relationship between the duo started since the year 2016 and the last incident mentioned in the F.I.R. is of 10 June 2019. The F.I.R. registered on 7 February 2024 does not reflect even a single incident during long time gap of 5 years from 10 June 2019 to 7 February 2024.

5) Though it is sought to be highlighted by Mr. Gaikwad that Complainant was required to make efforts for lodging of F.I.R. by approaching this Court by filing Criminal Writ Petition (ST) No. 589 of 2024, the long delay in lodging of F.I.R. cannot at the same time be ignored altogether.

6) Mr. Gaikwad has submitted that the F.I.R. contains specific allegations of caste based abuses made in public view and that therefore bar under Section 18 of the SC & ST Act is clearly attracted in the present case. He has also relied on judgment of the Apex Court in ***Vilas Pandurang Pawar and Another Vs. State of Maharashtra and Ors.***¹. However, the alleged caste based abuses by Appellant Nos. 1 and 3 are alleged to be made on 5 May 2019 and by Appellant No. 2 on 10 June 2019. There appears to be no explanation as of now as to why the Complainant did not lodge complaint against the Appellants immediately after the alleged caste based abuses. As of now, there appears to be clear case for raising a suspicion in respect of truth of allegations on account of considerable delay in lodging of F.I.R. In fact, Mr. Pathan would allege that the F.I.R. was lodged only on account of levelling of allegations against the Investigating Officer in Criminal Writ Petition (ST) No. 589 of 2024 and though the same was simplicitor adjourned on 29 January 2024 to enable the learned APP to take instructions, the Police hurriedly lodged F.I.R. on 7 February 2024 in order to prevent this Court from passing any orders in the said Petition. Be that as it may. Considering considerable delay in lodging of the F.I.R. particularly with regard to the accusation of caste based abuses, it cannot be said that there exist a *prima facie* case so as to attract bar under Section 18 of the SC & ST Act. Therefore, the ratio of the judgment of the Apex Court in ***Vilas Pandurang Pawar*** (supra) may not strictly apply to the present case.

7) It also appears that investigations into the crime are almost complete. The learned APP would confirm this position. It appears that the Appellants have co-operated with the Investigating Officer for completion of

¹ (2012) 0 AIR (SC) (Cri) 1630

the investigations. In that view of the matter, interim protection granted in favour of Appellants deserves to be made absolute.

8) The Appeal accordingly succeeds and I proceed to pass the following Order:

a) Order dated 29 January 2024 passed by the Additional Sessions Judge, Dindoshi, is set aside.

b) Interim Protection granted in favour of the Appellants by Order dated 6 March 2024 is made absolute.

c) Appellants shall attend the Court regularly on dates of hearing, unless exempted.

d) Appellants 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.

e) The Appellants shall inform their latest place of residence and mobile contact numbers 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.

9) With the above directions, the Appeal is allowed.

[SANDEEP V. MARNE, J.]