

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

CRIMINAL APPEAL NO. 554 OF 2024

Smt. Deepali Deepak Kumavat

.. Appellant

Versus

The State of Maharashtra and Ors.

.. Respondents

...

Mr. Anup Kamble a/w Mr. Sumit Vhanbatte i/b Mr. Aditya S. Raktade, for Appellant.

Ms. Shilpa G. Talhar, APP for for Respondent – State.

Ms. Sushan Mhatre, Appointed Advocate for Respondent No..

Mr. Vinod M. Patil, PSI, Mahatma Phule Chowk Police Station Kalyan.

...

CORAM : SANDEEP V. MARNE J.

DATE : 25 JULY 2024.

P.C. :-

1) This is an appeal filed under the provisions of Section 14-A of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 (S.C.S.T.Act) challenging order dated 6 May 2024 passed by the

Additional Sessions Judge, Kalyan rejecting the application for pre-arrest bail filed by the Appellant in connection with the C.R. No.63 of 2023 registered with Mahatma Phule Chowk Police Station for offences punishable under Sections 3(1)(p)(q)(r)(u), 3(2)(va)(vii) of the S.C.S.T. Act.

2) I have heard Mr. Kamble the learned counsel appearing for Appellant, Mr. Mhatre the learned counsel appointed by this Court from Legal Aid Panel representing Respondent No. 2 – Complainant as well as Ms. Talhar the learned APP for Respondent No.1 – State.

3) After having considered the submissions canvassed by the learned counsel appearing for the parties, it is seen that in the entire FIR statement, the caste-based abuses are allegedly made by the Appellant on 4 February 2023 to Complainant's mother when Appellant allegedly had visited Complainant's residence along with Police Constable Mr. Sudhir Rathod. Apart from those abuses, there is no other allegation relating to the caste of the Complainant in the entire FIR. In fact, the learned Sessions Judge has himself held that the offence under Section 3(1) (p) (q) of the S.C.S.T. Act is not made out at this juncture. However, the learned Judge has held that *prima facie* case under Sections 3(1) (r), 3(2) (vii) of S.C.S.T. Act is made out. The said finding is recorded by the learned Judge on the ground that the caste-based abuses on 4 February 2023 are allegedly made by the Appellant in presence of the Police Constable -Mr.Sudhir Rathod. However, the learned Judge has failed to appreciate that said Mr. Sudhir Rathod himself is an Accused in the said case. He is also accused of making the said abuses towards the mother of Complainant. In that view of the matter, *prima facie*, it appears

that the caste- based abuses are not made in public view. In my view therefore, the bar under Section 18 and 18-A of the S.C.S.T. Act would not be attracted in the present case.

4) It also to be borne in mind that the FIR registered on 8 February 2023 and it has been more than one and half years that the Investigating Officer had time to Investigate the crime. This is yet another reason why pre-arrest bail deserves to be granted in favour of the Appellant.

5) It also appears that cross complaint is filed by the Appellant against the Complainant with regard to the certain financial transactions.

6) Also of the relevance is the fact that Mr. Sudhir Rathod had been granted Anticipatory Bail and this position has been confirmed by the learned APP after taking instructions from the officer, who is present in the Court. In my view therefore, case is made out for grant of protection in the form of pre-arrest bail to the Appellant. Appeal accordingly succeeds and I proceed to pass the following order.

(a) In the event of arrest of the Appellant in Crime No.63 of 2023 registered with Mahatma Phule Chowk Police Station for offences punishable under Sections 3(1)(p)(q)(r)(u), 3(2)(va) (vii) of the S.C.S.T. Act. shall be enlarged on bail on furnishing P.R. Bond in the sum of Rs.25,000/- with one or two solvent sureties in the like amount.

(c) Appellant shall furnish her identity and address proof and of

her two blood relatives while furnishing sureties.

- (d) 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.
- (e) The Complainant being in service of Police Department shall not threaten or pressurize complainant or any witness associated with the case in any manner.

7) With the above directions, the appeal is allowed and disposed of.

[SANDEEP V. MARNE J.]

Digitally signed
by GAYATRI
RAJENDRA
SHIMPI
Date:
2024.07.26
10:06:17 +0530