

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO.705 OF 2024

Sagar Eknath Sali

...Appellant

V/s.

The State of Maharashtra and Anr.

...Respondents

WITH
CRIMINAL APPEAL NO.901 OF 2024

1 Sunil Eknath Sali
2. Shashank Balu @ Balkrushna
Khoje
3. Sagar Sopan Aalane

...Appellants

V/s.

The State of Maharashtra and Anr

...Respondents

Mr. Santosh C. Bhosle (*through VC*) for the Appellants.

Ms. Shilpa G. Talhar, APP for Respondent-State in APPEAL/901/2024.

Ms. Anuja S. Gotad, APP for Respondent -State in APPEAL/705/2024.

Ms. Meghna Gowalani, Advocate appointed for Respondent No.2 in both the Appeals.

CORAM : SANDEEP V. MARNE, J.

DATED : 12 December 2024.

P.C. :

1) Criminal Appeal No.705 of 2024 is filed by the Appellant- Sagar Sali challenging the order dated 15 June 2024 passed by the learned

Additional Sessions Judge, Yeola, rejecting the Application for pre-arrest bail in connection with C.R. 140 of 2023 registered with City Police Station Yeola under Sec.353, 143, 147, 149, 385, 501, 504, 506 of IPC and Sections 3(1)(r)(s), 3(2)(v) of the Scheduled Castes and Schedule Tribes (Prevention of Atrocities) Act, 1989 (**SCST Act**).

2) Criminal Appeal No.901 of 2024 is filed by three Appellants - Sunil Eknath Sali, Shashank Balu @ Balkrushna Khoje and Sagar Sopan Aalane challenging order dated 16 July 2024 passed by the Additional Sessions Judge, Yeola rejecting the Application for pre-arrest bail in connection with the same C.R. No.140 of 2023.

3) It appears that three accused in Criminal Appeal No.901 of 2024 were initially arrested on the basis of the FIR, which initially did not involve offences against the SCST Act. They were kept in custody for about 9 days and later released on regular bail. After their release on regular bail, offences under the provisions of SCST Act have been added. Therefore, they were required to apply for grant of anticipatory bail, which is rejected by the Special Court on 16 July 2024.

4) I have heard Mr. Santosh Bhosle, the learned counsel appearing for the Appellants, Ms Shilpa Talhar and Ms Anuja Gotad, the learned APPs for Respondent-State and Ms. Meghna Gowlani, the learned counsel appointed by the Court to represent Respondent No.2 through Legal Aid Panel.

5) So far as the allegations against the Appellant-Sagar Eknath Sali are concerned same essentially relate to allegation of defamation on account of maintenance of WhatsApp status relating to:-

- (i) अंगणवाडी नागडे येथे बेबी केअर किट मिळण्यासाठी खोटे सर्टीफिकीट मिळण्याचे एकमेव ठिकाण प्राथमिक आरोग्य केंद्र अंदरसूल,
- (ii) नागडे अंगणवाडीने प्राथमिक आरोग्य केंद्र अंदरसूल येथील डॉक्टरा कडून खोटे सर्टीफिकीट मिळविल्याची व्हीडीओ थोड्याच वेळात व्हायरल करतोय,
- (iii) निर्भय महाराष्ट्र पार्टी माहिती अधिकारात माहिती मागितली म्हणुन तक्रारदारास नागडे अंगणवाडीतून खोट्या केरा दाखल करण्याची धमकी,
- (iv) नागडे अंगणवाडी क्रं. 2 येथील भ्रष्टाचार उघडकिस.

6) Otherwise, the caste-based allegations are omnibus in nature, which are sought to be attributed to Sunil, Shashank and Sagar. As observed earlier, the Appellants in Criminal Appeal No.901 of 2024 were already arrested and kept in custody for 9 long days. The offence under the provisions of the SCST Act have been subsequently added after release of the said Appellants on regular bail.

7) In my view, therefore, custodial interrogation of the Appellants is not warranted in the present case. In absence of prima facie case indicating commission of offences under the provisions of SCST Act, bar under Section 18 of the SCST Act would not be attracted in the present case. Appellants are on interim protection granted by this Court. In my view, interim protection granted in favour of the Appellants deserves to be made absolute.

8) I accordingly, proceed to pass following order:-

- (i) Orders dated 15 June 2024 and 16 July 2024 passed by the learned Additional Sessions Judge, Yeola, are set aside.
- (ii) Interim protection granted in favour of the Appellant - Sagar Eknath Sali by order dated 29 July 2024 is made absolute.

(iii) Interim protection granted in favour of Appellants -Sunil Eknath Sali, Shashank Balu @ Balkrushna Khoje and Sagar Sopan Aalane granted vide order dated 28 August 2024 is made absolute subject to furnishing PR bonds in the sum of Rs.25,000/- each with one or two sureties in the like amount.

(iv) The Appellants shall remain present before the Investigating Officer for investigation as and when summoned and shall co-operate with the investigations

(v) 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.

9) With the above directions, the Appeals are allowed and disposed of.

[SANDEEP V. MARNE, J.]