

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

CRIMINAL APPEAL NO. 743 OF 2024

Arun Shankar Mahadik And Anr

... **Appellants**

Versus

The State of Maharashtra And Anr.

... **Respondents**

Mr. Shailesh D. Chavan *a/w Mr. Prashant Kamble & Mr. Hrishikesh Avhad for the Appellants.*

Ms. Rashmi S. Tendulkar, *APP for Respondent No.1-State.*

Mr. Vikrant Shinde *for Respondent No.2.*

Mr. S. Y. Jadhav, ASI Rahimatpur Police Station is present.

CORAM : SANDEEP V. MARNE, J.

DATE : 27 NOVEMBER 2024.

P.C. :

1) This Appeal is filed under the provisions of Section 14A of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 (**SC & ST Act**) challenging the Order dated 4 July 2024 passed by the learned Special Judge, Satara rejecting the application filed by the Appellants for pre-arrest bail under Section 438 of the Code of Criminal Procedure, in connection with C.R. No.115 of 2024 registered with Rahimatpur Police Station, Satara for offence punishable under Sections 324 and 504 read with 34 of the Indian

Penal Code, 1860 and under Sections 3(1)(r)(s), 3(2)(va) and 6 of the SC & ST Act.

2) I have heard Mr. Chavan, the learned counsel appearing for the Appellants, Ms. Tendulkar, the learned APP appearing for Respondent No.1-State and Mr. Shinde, the learned counsel appearing for Respondent No.2-Complainant.

3) While granting interim protection in favour of the Appellants, this Court made following observations in paragraphs 3 and 4 of the Order dated 19 July 2024:

"3) It *prima facie* appears that scuffle has taken place between the members of two families. While the FIR alleges abusing and assault on the part of the Appellants towards the Complainant, there is a cross FIR lodged by Appellant No.2 – Gauri Rohit Jadhav in which she has alleged that the Complainant and his son have assaulted the Appellants in addition to tearing clothes of Appellant No.2.

4) Mr. Chavan has drawn my attention to the photographs of the incidents taken from the CCTV footage, which *prima facie* indicate that the Complainant and his son voluntarily entered the house premises of the Appellants. The photographs show that the Complainant and his son carrying wooden sticks. Mr. Chavan would submit that he is willing to submit the video recording from the said CCTV footage to the Investigating Officer, to prove falsehood of the FIR lodged by the Complainant."

4) The allegation in the FIR is that the Complainant was having a meal in the rare side door of his house, when Appellant No.1 – Arun Shankar Mahadik was passing through the open space at rare side of the Complainant's house and the Complainant objected about Appellant No.1 passing through the said rare open space. It is

alleged that when such objection was raised by the Complainant, Accused No.1 made caste based utterances and thereafter the incident of alleged assault has taken place. Not only there is a cross FIR, but the photographs of the incident would *prima facie* indicate absence of truth in the allegations made in the FIR statement. The said photographs indicate that the Complainant and his son entered the house premises of the Appellants on their own accord by carrying wooden stick in their hands. It is therefore difficult to hold at this stage that any *prima facie* case is made out of commission of offences under provisions of SC & ST Act for application of bar under Section 18 thereof.

5) It appears that in pursuance of Order dated 19 July 2024 Appellants have remained present before the Investigating Officer and have co-operated with completion of investigations. The investigations are complete and chargesheet has been filed. In that view of the matter, custodial interrogation of the Appellants is not warranted. Therefore, interim protection granted in their favour by Order dated 19 July 2024 deserves to be made absolute.

6) I accordingly proceed to pass the following order:

a) Order dated 4 July 2024 passed by the learned Special Judge, Satara is set aside.

b) Interim protection is granted in favour of the Appellants by Order dated 19 July 2024 is made absolute.

c) Appellants shall attend each date of hearing before the Trial Court regularly unless exempted from personal appearance.

d) The Appellants shall not contact the Complainant or any other witnesses associated with the case nor shall tamper with the evidence.

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

[SANDEEP V. MARNE, J.]