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15:13:05 +0530**IN THE HIGH COURT OF JUDICATURE AT BOMBAY****CRIMINAL APPELLATE JURISDICTION****CRIMINAL APPEAL NO. 787 OF 2024**

Madan Maruti Patil

.. Appellant

Versus

State Of Maharashtra And Anr

.. Respondents

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- Mr.Viresh Purwant a/w Mr. Suraj V. Gadkari, and Ms. Fareha Rizavi, for the Appellant.
- Ms. Anuja S. Gotad, APP for Respondent- State.
- Mr.S.S. Mane-PN, Natepute police station present.

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CORAM : SANDEEP V. MARNE, J.**DATE : AUGUST 13, 2024****P. C.:**

1. This Appeal is filed under the provisions of 14(A) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 ('**SC & ST Act**') challenging the order dated 09/07/2024 passed by the Additional Sessions Judge, Malshiraj rejecting the Application filed by the Appellant seeking pre-arrest bail in connection with Crime No. 0329 of 2024 registered with Akluj Police Station, Solapur Rural.

2. At the outset Mr.Purwant, learned counsel appearing for the Appellant would submit that though the person named as accused in the FIR is "Nandkumar Maruti Patil", there is no such person in the village Nevare and that the police are actually attempting to arrest the Appellant whose name is "Madan Maruti Patil". This is a reason why the

Appellant was required to file an application for anticipatory bail before the learned Special Judge.

3. Perusal of the FIR would *prima facie* indicate that all the offences accused under the provisions of Indian Penal Code ('IPC') are bailable. So far as the offence under the SCST Act are concerned, though caste based utterances are included in the FIR, it *prima facie* appears that the said utterances were made before the other persons attempted to intervene in the incident. In that view of the matter, there is reason to believe that the caste based utterances were not made in public view. Therefore, the bar under Section 18 of the SCST Act would not *prima facie* apply to the present case. The Appellant therefore deserves to be granted interim protection till the Respondent No.2 makes an appearance in the present Appeal.

4. Issue notice to the Respondent No.2, returnable on 02/09/2024.

5. The concerned Investigating Officer shall record the statement of the Respondent No.2 as to whether he desires to engage a private Advocate or avail the services of Legal Aid Panel Advocate. The statement shall be produced before the Court on the next date of hearing.

6. In the event arrest of the Appellant, in Crime No.0329 of 2024 registered with Akhuj Police Station, District-Solapur Rural, for the offences punishable under Sections 323, 324, 427, 504 and 506 of the

IPC and Sections 3(1)(r), 3(1)(s), 3(2)(va) of the SCST Act, he shall be enlarged on interim bail on furnishing P.R. Bonds in the sum of Rs.25,000/-with one or two solvent sureties in the like amount.

7. Appellant shall furnish identity and address proof of himself and of his two blood relatives while furnishing sureties.

8. 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.

9. Appellant shall co-operate for completion of investigation.

10. List the Criminal Appeal on 02/09/2024.

[SANDEEP V. MARNE, J.]