

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

CRIMINAL APPEAL NO. 787 OF 2024

Madan Maruti Patil

... Appellant

Versus

The State of Maharashtra And Anr

... Respondents

Mr. Viresh Purwant *a / w Mr. Suraj Gadkari for the Appellant.*

Ms. Anuja S. Gotad, APP *for the Respondent No.1-State.*

Ms. Priyanka Chavan *appointed for Respondent No.2.*

Mr. B. N. Pansare, ASI, Akluj Police Station is present.

CORAM : SANDEEP V. MARNE, J.

DATE : 17 DECEMBER 2024.

P.C. :

1) This Appeal is filed under the provisions of Section 14-A of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 (**SC & ST Act**) challenging the Order dated 9 July 2024 passed by the learned Additional Sessions Judge, Malshiras rejecting the application filed by the Appellant seeking pre-arrest bail in connection with C.R. No. 329 of 2024 registered with Akluj Police Station, Solapur Rural.

2) I have heard Mr. Purwant, the learned counsel appearing for the Appellant, Ms. Gotad, the learned APP appearing for

Respondent No.1-State and Ms. Chavan, the learned counsel appointed though Legal Aid Panel to represent for Respondent No.2.

3) Perusal of the FIR would indicate that in addition to offences under provisions of Sections 3(1)(r), 3(1)(s) and 3(2)(va) of the SC & ST Act, the Indian Penal Code offences relating to assault viz Sections 324, 323, 427, 504 and 506 are otherwise bailable. The learned Special Judge has mainly rejected the application for anticipatory bail on the ground of recovery of stick and the motorcycle allegedly used during commission of the crime. I fail to understand at this stage as to why recovery of motorcycle is necessary, when the FIR statement does not reflect commission of crime by using the motorcycle as weapon.

4) The Appellant is already on interim protection granted by this Court by order dated 13 August 2024 in which this Court has made following observations in paragraphs 2 and 3 :

"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."

5) Ms. Chavan would submit that there are specific caste based utterances attributed to the Appellant, which are made in public view. It appears that presence of persons namely Hanma Jadhav, his wife and Chintu Patil is reflected in the FIR statement. The learned APP is however unable to point out statements of the said persons and therefore this Court is unable to verify whether the caste based utterances were indeed made in presence of the said persons or not. Since all the IPC offences are bailable and the Appellant is denied anticipatory bail possibly on account of bar under provisions of Section 18 of the SC & ST Act, I am of the view that, custodial interrogation of the Appellant would no longer be necessary, considering the fact that he has already cooperated with investigations by remaining present before the Investigating Officer as directed by this Court.

6) Ms. Chavan would complain that the Appellant is threatening the relatives of the Complainant on account of lodging of the FIR. However, as of now there is no material to support the said allegation. If and when it is found that the Appellant has contacted or threatened either the Complainant, his relatives or witnesses associated with the case, the prosecution would be free to apply before the learned Special Judge for withdrawal of the anticipatory bail granted to the Appellant. However as of now custodial interrogation of the Appellant does not appear to be necessary. In that view of the matter, interim protection granted in favour of the Appellant deserves to be made absolute.

- 7) I accordingly proceed to pass the following order:
- a) Order dated 9 July 2024 passed by the learned Additional Sessions Judge, Malshiras is set aside.
 - b) Interim protection granted in favour of the Appellant by order dated 13 August 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.
 - e) Remain present before the Investigating Officer as and when summoned for conduct of any further investigations.
- 8) It is specifically clarified that, in the event, it is found that the Appellant has violated any of the above conditions, the prosecution would be at liberty to apply before the learned Special Judge for withdrawal of anticipatory bail granted to the Appellant.
- 9) With the above direction, the Appeal is **allowed and disposed of.**

[SANDEEP V. MARNE, J.]