

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO.829 OF 2024

Omkar Narayan Jadhav

....Appellant

V/s.

State of Maharashtra and Anr.

....Respondents

Mr. Satyavrat Joshi *i/b Ms. Shivani S. Kondelkar, for the Appellant.*

Ms. Rashmi S. Tendulkar, *APP for the Respondent-State.*

CORAM : SANDEEP V. MARNE, J.

Date : 8 AUGUST 2024.

PC. :

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 15 July 2024 passed by the learned Special Judge, Pune rejecting the application for pre-arrest bail filed by the Appellant in connection with the C.R. No.130 of 2024 registered with Jejuri Police Station for offences punishable under Sections 143, 147, 148, 149, 324, 323, 504, 506 of the Indian Penal Code and under Sections 3(1)(rs) and 3(2)(va) of the S.C.S.T. Act.

2) It is the contention that of the learned counsel appearing for the Appellant that all the IPC Sections included in the FIR are bailable. Upon a query raised by this Court as to whether Section 324 of IPC

can still be considered as bailable, in view of the amending Act 2005, reliance is placed on Judgment of this Court in ***Chandra Kanjappa Kuchchikurwe Vs. State of Maharashtra and Anr.***¹ in which this Court has taken a view that as on 14 December 2012 the entry 'non-bailable' appearing against Section 324 was not notified. From various notifications issued from time to time, it appears that entries relating to Sections 324 and 325 in first schedule of the Code of Criminal Procedure 1973 are yet to be notified. *Prima facie*, therefore, it appears that even Section 324 continues to bailable offence as of now. This aspect can be further pondering during the course of final hearing of the Appeal.

3) However, offences under SCST Act are also included in the FIR on account of the Complainant belonging to Scheduled Caste Community. Perusal of the FIR would indicate that caste-based utterances are shown to have been made at 8.30 p.m. on 29 March 2024 by the Appellant however, prima facie there is nothing to indicate that the same were made in public view. The second incidents occurred at 9.00 p.m. on 29 March 2024 where the Appellant and other accused have allegedly assaulted the complainant. In respect of second incidents, there are no allegations relating to caste-based utterances.

4) In my view therefore, the Appellant needs to be granted interim protection till Respondent No.2 makes an appearance in the Appeal. Though my attention is invited by the learned counsel appearing for Appellant to Purshis filed by Respondent No.2 stating that he did not desire to file any reply to the Anticipatory Bail

1. 2013 (1) AIR Bom R 674

Application, still notice to Respondent No.2 would be necessary, considering the provisions of Section 15 – A of the Act.

5) Accordingly, issue notice to Respondent No.2, returnable on **3 September 2024**.

6) The Investigating Officer shall record statement of Respondent No.2 - as to whether he desires to engage private Advocate or to avail services of Legal Aid Penal Advocate.

7) Till the next date of hearing, in the event of arrest of the Appellant, he shall be released on bail on executing P.R. Bond in the sum of Rs.25,000/- with one or two solvent sureties in the like amount.

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

10) The Appellant shall inform his latest place of residence and mobile contact number immediately after being released and/or change of residence or mobile details, if any, from time to time to the Trial Court as well as to the concerned Police Station in writing.

[SANDEEP V. MARNE, J.]