

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO. 830 OF 2024

Seema Tulsidas Lakhani

... **Appellant**

Versus

The State of Maharashtra and Anr.

... **Respondents**

Ms. Aishwarya Kantawala *a/w Ms. Diya Jayan for Appellant.*

Ms. Shilpa K. Gajare-Dhumal, *APP for Respondent No.1-State.*

Mr. Atul B. Sonawane *a/w Mr. Suraj Gadkari a/w Mr. Suraj Kamble for Respondent No.2.*

CORAM : SANDEEP V. MARNE, J.

DATE : 4 SEPTEMBER 2024.

P.C. :

1) This is an Appeal filed under provisions of Section 14-A of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act 1989 (**SC & ST Act**) challenging the Order dated 24 July 2024 passed by the Special Judge, Pune rejecting the application filed by the Appellant under Section 438 of the Code of Criminal Procedure seeking pre-arrest bail in connection with C.R. No. 153 of 2024 registered with Samrath Police Station for offences punishable under Sections 498-A,

323, 504 and 506 read with Section 34 of the Indian Penal Code, 1860 and Sections 3(1)(r), 3(1)(s) of the SC & ST Act.

2) I have heard Ms. Kantawala, the learned counsel appearing for the Appellant, Mr. Sonawane, the learned counsel appearing for Respondent No. 2 and Ms. Gajare-Dhumal, the learned APP appearing for Respondent No.1-State.

3) Perusal of the FIR statement would clearly indicate marital discord between the Complainant and her husband (Accused No.1). The Appellant is the mother of Accused No. 1. Apparently the Complainant and Accused No. 1 are not residing with each other since 16 April 2024. The existence of marital discord between the parties appears to be the main reason behind lodging the FIR. Ms. Kantawala would highlight the position that the last incident in the FIR has allegedly taken place on 16 April 2024, whereas the FIR is lodged after delay of 81 days on 6 July 2024. However, Mr. Sonawane is quick enough to clarify that Respondent No. 2 had filed two complaints on 19 April 2024 and 6 May 2024 before lodging of the FIR and that the time was spent on making efforts for lodging of the FIR.

4) Perusal of the statement of the Complainant would indicate that though the Appellant is accused of making caste-based utterances towards the Complainant, there is nothing to indicate that the utterances have taken place in public view. All the utterances, even if taken as true, have taken place within the four corners of the house and there is nothing to indicate that such utterances are heard by

members of public in any manner. Mr. Sonawane would invite my attention to the allegation in the FIR about both the accused repeatedly insulting her with reference to the caste in loud voice audible to the outsiders. However, no particulars are given in respect of the said allegation. In my view, therefore, bar under Section 18 would not apply to the present case in absence of the caste-based utterances taking place in public view.

5) Accused No. 1 has already been arrested on 7 July 2024 and released on bail on 24 July 2024. Appellant is the mother of Accused No. 1 and is a senior citizen. Ms. Kantawala would submit that the Appellant has already handed over CCTV footage relating to the house to the Investigating Officer which would depict falsity in the allegations levelled by Complainant. She would further submit that the Appellant has attended the concerned Police Station on 21 August 2024 and has co-operated with completion of investigations. Ms. Gajare-Dhumal would clarify that investigations into the crime are complete and the chargesheet has already been filed. She would further clarify that in view of completion of investigations, custodial interrogation of the Appellant is no longer necessary.

6) Though, Mr. Sonawane has expressed an apprehension that the Appellant is likely to influence the witnesses associated with the case, in my view there appears to be no reasonable ground to entertain such apprehension. However necessary condition can be incorporated in the order to ensure that the Appellant does not meet or influence any

witness. Therefore, the interim protection granted in favour of the Appellant deserves to be made absolute.

7) I proceed to pass the following Order:

- a) Order dated 24 July 2024 passed by the learned Special Judge is set aside.
- b) Interim protection granted in favour of the Appellant by Order dated 8 June 2024 is made absolute.
- c) Appellant shall attend every date of hearing before the Trial Court unless exempted.
- d) Appellant shall not contact the Complainant or any other witness associated with the case nor shall pressurize them or tamper with the evidence.
- e) Appellant shall remain present before the concerned Investigating Officer as and when summoned for conduct for any further investigations.

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

[SANDEEP V. MARNE, J.]