

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO. 873 OF 2024

Girija Shankar Pandey And Anr.

... Appellants

Versus

The State of Maharashtra And Anr.

... Respondents

Mr. Himanshu Singh h/f R. R. Mishra *for the Appellants.*

Ms. S. K. Gajare, APP *for the Respondent No.1-State.*

Mr. Sanjiv Sawant, Mr. Rohan Mahadik, Mr. Sunil Lahane, Mr. Amit Kamble, Ms. Rachana Karad, Ms. Mekhala More i/b The Juris Partners *for Respondent No.2.*

Mr. Uttam R. Kolekar, Asst. Commissioner of Police, Kalwa Division, *Thane is present.*

CORAM : SANDEEP V. MARNE, J.

DATE : 8 OCTOBER 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 2 August 2024 passed by the Additional Sessions Judge, Thane rejecting the application filed by the Appellants for grant of Pre-Arrest Bail in connection with C.R. No. 1101 of 2024 registered with Kalwa Police Station under Sections 341, 420, 406, 447, 504, 506, 34 of Indian Penal

Code read with Sections 3(1)(g), 3(1)(p), 3(1)(r) and 3(2)(va) of the SC & ST Act.

2) This Court was persuaded to grant interim protection in favour of the Appellants by directing that no coercive action shall be taken against them only on account of a specific statement made on behalf of the Appellants that possession of both the flats shall be handed over to the Complainant within two weeks. Since the undertaking given to this Court was not complied with and the flats were not handed over within the time limit specified, extension of time was sought on 9 September 2024 submitting that some more time was needed for vacating possession of the flats. Again on 1 October 2024 a statement made before this Court that one of the Appellants was unwell and that possession of the flats would be handed over before the next date of hearing.

3) Today when the Appeal is called out for hearing the learned counsel appearing for Appellants would submit that the Appellants have not handed over possession of the flats. He would further submit that he has no instructions from the Appellant. That he would leave it to the Court for passing of appropriate orders.

4) In fact this Court was not inclined to entertain the present Appeal for hearing on 21 August 2024. However a specific representation was made to the Court that within two weeks, the Appellants shall handover possession of the flats to the Complainant and only because of such undertaking given to the Court, this Court

entertained the Criminal Appeal by granting interim protection in favour of the Appellants. However the Appellants misused said interim protection and have not observed the undertaking given to the Court. In fact such conduct of the Appellants is contemptuous, since the statement made on their behalf was accepted by this Court as an undertaking given to this Court. Even on merits, in my view no case is made out for grant of pre arrest bail and this Court would have otherwise decided the Appeal against the Appellants. Be that as it may. Since the learned counsel appearing for Appellants is without any instructions to prosecute the present Appeal, this Court is left with no other alternative but to dismiss the same accordingly.

5) Criminal Appeal is dismissed. Interim protection granted in favour of the Appellant is vacated forthwith.

[SANDEEP V. MARNE, J.]