

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

CRIMINAL APPEAL NO. 874 OF 2024

Vilas Dagadu Bhoir And Anr

... **Appellants**

Versus

The State of Maharashtra And Anr.

... **Respondents**

Mr. Nilesh Navale i/b Mr. Susmit S. Phatale *for the Appellants.*

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

Mr. Sushan Mhatre, *appointed Advocate (Through V.C.) for the Respondent No.2*

CORAM : SANDEEP V. MARNE, J.

DATE : 22 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 29 July 2024 passed by the Additional Sessions Judge, Kalyan rejecting the application filed by Appellant for grant of bail under Section 438 of Code of Criminal Procedure in connection with C.R. No. I-53 of 2023 registered with Kasara Police Station for offences punishable under Sections 324, 504, 506, 427 read with Section 34 of the Indian Penal Code, 1860 and Sections 3(1)(r) and 3(2)(va) of the SC & ST Act.

2) I have heard Mr. Navale, the learned counsel appearing for the Appellant, Mr. Mhatre, the learned counsel appointed by the Court to represent Respondent No.2. and Ms. Gajare-Dhumal, the learned APP appearing for Respondent No.1-State.

3) While granting interim protection in favour of the Appellant this Court made following observations in Order dated 23 August 2024:

"It appears that the investigation into the crime are already complete. The spade used for commission of the alleged crime has already been recovered. Charge-sheet has been filed on 12 August 2023. Perusal of the injury certificate *prima facie* indicates presence of only two simple injuries on the Complainant. Though presence of Complainant's wife Urmila Umesh Wagh is reflected into FIR statement, statement of Urmila does not reflect any caste based utterances. In my view, therefore, *prima facie*, the bar under Section 18 of the SC and ST Act would not be applicable in the present case. Appellant therefore, deserves to be granted interim protection."

4) Thus, the allegation of the Complainant about the utterances with reference to caste of the Complainant are not reflected in the statement of his wife Urmila Umesh Wagh. The injury certificate does not exactly support the allegations of assault in the FIR statement. The entire investigations into the crime are already complete and the chargesheet has been filed. In that view of the matter, custodial interrogation of the Appellant is not warranted. Therefore the interim protection granted in favour of the Appellant deserves to be made absolute.

5) I accordingly proceed to pass the following order:

- a) Order dated 29 July 2024 passed by the Additional Sessions Judge, Kalyan is set aside.
 - b) Interim protection granted in favour of the Appellant by Order dated 23 August 2024 is made absolute.
 - c) Appellant shall not attempt to contact or pressurize the Complainant or any other witnesses associated with the case nor shall tamper with the evidence either directly or indirectly.
 - d) Appellant shall attend Trial Court regularly unless exempted from personal appearance.
- 6) With the above directions the Appeal is allowed and disposed of.

[SANDEEP V. MARNE, J.]