

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

CRIMINAL APPEAL NO. 888 OF 2024

Shahainaz Aziz Sharif

}*Appellant*
(*Orig.Accused/Applicant*)

: *Versus* :

1. The State of Maharashtra

(Through Samarth Police Station, Pune)

2. Trupti Walmik Gaikwad

}....*Respondents*
(*Resp.No.2/Orig.Informant*)

Mr. Nagesh Khedkar *a/w. Mr. Nikhil Hire, Mr. Ajinkya R. Mahadik and Mr. Salman Maniyar, for the Appellant.*

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

CORAM : SANDEEP V. MARNE, J.

Dated : 22 August 2024.

P.C. :

1) This is an Appeal under the provisions of Section 14A of the Scheduled Castes & Scheduled Tribes (Prevention of Atrocities) Act, 1989 (**S.C.S.T. Act**) challenging the order dated 1 August 2024 passed by the learned Judge rejecting the application for pre-arrest bail under Section 428 of the Code of Criminal Procedure, 1973 (**Code**) in connection with Crime No. 147/2024 registered with Samarth Police Station, Pune for the offences punishable under

Sections 323, 342, 406, 504, 506(2) read with Section 34 of the Indian Penal Code and 3(1)(r), 3(1)(s) and 3(2) of the S.C.S.T. Act.

2) *Prima-facie*, it appears that the complaint is lodged by the Complainant on account of marital discord between the Complainant and her husband, Danish. Accused No.1-Danish has already been arrested. Appellant is the mother-in-law of the Complainant. Essential allegation in the FIR is about conversion of the Complainant to Muslim religion against her wish. However, the incident of conversion has taken place on 25 December 2023, whereas, the FIR appears to have been lodged on 29 June 2024. Perusal of the FIR, *prima-facie* indicates that caste based utterances are attributed to Accused No.1-Danish and not against the Appellant. In that view of the matter, bar under Section 18 of the S.C.S.T. Act would not apply to the present case. Therefore, the Appellant deserves to be granted interim protection till Respondent No.2 makes an appearance in the Appeal.

3) Issue notice to Respondent No.2 returnable on **10 September 2024**. Investigating Officer shall record the statement of Respondent No.2-Complainant as to whether she proposes to engage Advocate to oppose the Appeal or desires to avail the services of private advocate from the legal aid panel and submit a report to this Court before the next date of hearing.

4) Till the next date of hearing, in the event of arrest of the Appellant in Crime No. 147/2024 registered with Samarth Police Station, Pune for the offences punishable under Sections 323, 342, 406, 504, 506(2) read with Section 34 of the Indian Penal Code,

she shall be released on bail on furnishing P.R. Bond in the sum of Rs.25,000/- with one or two solvent sureties in the like amount.

5) The Appellant shall co-operate with completion of investigation by remaining present before the Investigating Officer as and when summoned.

6) Appellant No.2 shall not attempt to contact the Complainant in any manner or any other person/witness associated with the case nor shall tamper with the evidence either directly or indirectly.

7) Appellant shall furnish identity and address proof of herself and of her two blood relatives while furnishing sureties.

8) List the Appeal on **10 September 2024.**

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[SANDEEP V. MARNE, J.]