

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

CRIMINAL APPEAL NO.888 OF 2024

Shahainaz Aziz Sharif

....Appellant

V/S

The State of Maharashtra & Anr.

....Respondents

Mr. Nagesh S. Khedkar (through video conferencing) a/w
Ms. Sampada S. Patil *for the Appellant.*

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

Ms. Priyanka Chavan, *appointed Advocate for Respondent
No.2.*

*Mr. M.D. Giri, PSI, Samarth Police Station, Pune present in
Court.*

**CORAM: SANDEEP V. MARNE, J.
DATE : 19 NOVEMBER 2024.**

P.C.:

1 This is an Appeal filed under the provisions of section 14A of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 (**SC & ST Act**) challenging order dated 1 August 2024 passed by Special Judge, Pune, rejecting the Application filed by the Appellant for pre-arrest bail under section 439 of the Code of Criminal Procedure, 1973 in connection with C.R. No.147 of 2024 registered with Samarth Police Station, Pune, for offences punishable under Sections 323, 342, 406, 504, 506(2) read with section 34 of the Indian Penal

Code (**IPC**) and under sections 3(1)(r), 3(1)(s) and 3(2) of the SC & ST Act.

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

3 While granting interim protection in favour of the Appellant on 22 August 2024, this Court made following observations:

“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 allegations 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.”

4 Perusal of the FIR statement would indicate that there are no caste based utterances attributed to the Appellant. The main Accused No.1-Danish has already been arrested and released on

bail by the learned Special Judge. *Prima facie*, it appears that no offence under provisions of SC & ST Act is made out against the Appellant and therefore bar under provisions of section 18 of the SC & ST Act would not be attracted in the present case. The investigations are complete and the charge-sheet has already been filed. In that view of the matter, custodial interrogation of the Appellant at this stage does not appear to be necessary. Therefore the interim protection granted in favour of the Appellant deserves to be made absolute.

5 I accordingly proceed to pass the following order:

- i) Order dated 1 August 2024 passed by the learned Special Judge is set aside.
- ii) Interim protection granted in favour of the Appellant by order dated 22 August 2024 is made absolute subject to the following conditions:
 - a) Appellant shall not attempt to contact or pressurize the Complainant or any of the witnesses associated with the case in any manner nor shall he tamper with the evidence in the case.
 - b) The Appellant shall remain present on each date of hearing before the Trial Court unless exempted from personal appearance.

6 With the above directions, the Appeal is accordingly **allowed and disposed of.**

(SANDEEP V. MARNE, J.)

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