

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

CRIMINAL APPEAL NO. 910 OF 2024

Rajendra Chandansingh Rajput And Anr **... Appellants**

Versus

The State of Maharashtra And Anr. **... Respondents**

Mr. Ateet Shirodkar *for the Appellants.*

Ms. Anuja S. Gotad, *APP for Respondent No.1-State.*

Ms. Shivani Kondekar *appointed for Respondent No.2.*

CORAM : SANDEEP V. MARNE, J.

DATE : 13 NOVEMBER 2024.

P.C. :

1) This Appeal is filed under the provisions of Section 14-A of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 (SC & ST Act) challenging the Order dated 7 August 2024 passed by the learned Additional Sessions Judge, Yeola rejecting Application filed by the Appellants for grant of pre-arrest bail in connection with C.R. No.256 of 2023 registered with City Police Station, Yeola for offences punishable under sections 327, 324, 143, 147, 148, 149, 363, 504, 323, 506, 354 of the Indian Penal Code, 1860 and Sections 3(1)(r) of the SC & ST Act.

2) I have heard Mr. Shirodkar, the learned counsel appearing for the Appellants, Ms. Gotad, the learned APP appearing for Respondent No. 1-State and Ms. Kondekar, the learned counsel appointed by this Court from Legal Aid Panel to represent Respondent No.2.

3) Both the learned APP as well as Ms. Kondekar would strenuously oppose the Appeal. Ms. Kondekar would particularly oppose grant of anticipatory bail to Appellant No.1, who, according to her, has not only assaulted the complainant but has humiliated him by making utterances with reference to his caste. She would submit that all the ingredients of offences under the SC & ST Act are clearly made out against the Appellant No.1. She has submitted that considering the age of Appellant No.2, though he can be granted anticipatory bail, no case is made out for grant of anticipatory bail in favour of Appellant No.1. She would try to justify the delay in lodging of FIR by submitting that Respondent No.2 was threatened with dire consequences and that the FIR was lodged only after agitations were made. She would submit that Respondent No.2 is not only badly assaulted but has been humiliated by making him to strip. Ms. Kondekar has also taken the findings recorded by the learned Special Court, who has seen the video clip in which the Complainant is seen to have been stripped and badly assaulted. The learned APP would take me through the images of recording of the incident to make out a case of assault on the Complainant.

4) While granting interim protection in favour of the Appellants, this Court made following *prima facie* observations:

3) Perusal of the FIR statement would indicate that assaults on three separate occasions are committed on the Complainant. In respect of the incidents involved in the first two assaults, the Appellants are apparently not involved. Appellant No.2 is named in respect of the third assault allegedly committed when the Complainant was taken at the house of Ganesh Pardeshi. Appellant No.1 is described in the FIR statement as Shravani's aunt's husband from Shirdi. Though there is an allegation of assault by use of sticks, wooden logs and belt, the exact role ascribed to various accused is not reflected. There are no allegations against the Appellants regarding any caste-based utterances. Prima facie therefore the bar under Section 18 of the SC & ST Act would not be attracted in the present case. Accused No.1 and 2 are apparently already arrested. Appellant No.2 is aged 70 years. In that view of the matter, the Appellants deserve to be granted interim protection till respondent No.2 makes an appearance in the Appeal.

5) There appears to be inordinate delay in lodging of the FIR. The alleged incident has occurred on 17 June 2024 whereas the FIR is lodged on 7 July 2024. The FIR statement does not contain any caste based utterances nor the offences under SC & ST Act were initially included in the FIR. Though the exact date on which the offences under SC & ST Act came to be included is not clear at this stage, it appears that while opposing anticipatory bail, report dated 22 July 2024 was submitted before the learned Special Judge by the Investigating Officer in which the alleged caste based utterances made by Appellant No.1 are apparently included. Why those caste based utterances do not form part of FIR statement is not clear at this stage. The fact that there is inordinate delay in lodging the FIR coupled with the fact that allegations of caste based utterances are added subsequently, it is difficult to believe at this stage that *prima facie* case of commission of

any offence under SC & ST Act is made out. Therefore, bar under provisions of Section 18 of the Act would not be attracted in the present case.

6) Also of relevance is the fact that the rest of the accused has been arrested and are released on grant of regular bail. The Appellants have co-operated with the investigations by remaining present before the Investigating Officer as directed by this Court. Investigations into the crime are complete and the chargesheet has already been filed. In that view of the matter, I do not see any reason why custodial interrogation of the Appellants at this stage would be necessary. In that view of the matter, interim protection granted in favour of the Appellants by the order dated 3 September 2024 deserves to be made absolute.

7) I accordingly proceed to pass the following order:

a) Order dated 7 August 2024 passed by the learned Additional Sessions Judge, Yeola to set aside.

b) Interim protection granted in faovur of by the order dated 3 September 2024 is made absolute.

c) Appellants shall attend each date of hearing before the Trial Court unless exempted from personal appearance.

d) Appellants shall not attempt to contact or pressurize the complainant or any other witnesses associated with the case nor shall tamper with the evidence.

e) Appellants shall co-operate for completion of any further investigation as and when summoned by the Investigating Officer.

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

[SANDEEP V. MARNE, J.]