

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO. 935 OF 2024

Sadanand Dayanand Salian

... Appellant

Versus

The State of Maharashtra And Ors.

... Respondents

Mr. Umar Z. Kazi (*Through V.C.*) for Appellant.

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

Mr. Nilesh Navale for Respondent Nos. 2 & 3.

Mr. P. R. Ghutugade, API, Dombivli Police Station is present.

CORAM : SANDEEP V. MARNE, J.

DATE : 17 DECEMBER 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**) filed by the first Informant - Complainant challenging the Order dated 15 May 2024 passed by the learned Additional Sessions Judge, Kalyan to the limited extent of grant of anticipatory bail to Accused No.1-Ujala Ankush Patil and Accused No.2-Amruta Ujala Patil.

2) Respondent Nos. 2 and 3 are arraigned as Accused Nos. 1 and 2 in connection with C.R. No. I-12 of 2024 registered with Dombivli Police Station for offences punishable under Sections 325,

354, 323, 427, 504 read with Section 34 of the Indian Penal Code and under Sections 3(1)(w)(i) and 3(1)(w)(ii) of the SC & ST Act. Respondent Nos. 2 and 3 filed Applications under provisions of Section 438 of the Code of Criminal Procedure for grant of anticipatory bail before the learned Special Judge. By order dated 15 May 2024, the learned Special Judge has allowed the applications filed by Respondent Nos. 2 and 3 and have granted protection from arrest while rejecting the application filed by Accused No.3-Rohit Ankush Patil.

3) I have heard Mr. Kazi, the learned counsel appearing for the Appellant, Ms. Gajare-Dhumal, the learned APP appearing for Respondent No.1-State and Mr. Navale, the learned counsel appearing for Respondent Nos. 2 and 3.

4) Mr. Kazi would submit that the Respondent No.2 is misusing the anticipatory bail granted to him by repeatedly threatening the Appellant, which has resulted in the Appellant leaving the house located in the building and taking a shelter in rental premises. He would further submit that the wife of the first Informant has sustained grievous injuries in the form of a fracture on account of assault committed by Accused No.1-Ujala Patil. He would further submit that the FIR statement clearly indicates the act of outraging the modesty of Appellant's wife by Accused No.1-Ujala Patil. Despite there being specific allegations of assault committed by Respondent Nos. 2 and 3 on the Appellant as well as his wife, the learned Special Judge has erroneously granted anticipatory bail to them.

5) On the other hand, Mr. Navale would invite my attention to the cross FIR lodged at the instance of the Respondent No.3 on 17 January 2024 in connection with the same incident, which has allegedly occurred on 6 January 2024. He would submit that there is a property dispute between Respondent No.2-Ujala and his uncle-Vijay Dattu Patil and that the concerned FIR has been lodged against Respondent Nos. 2 and 3 out of the property dispute with the uncle-Vijay Dattu Patil. He would also rely upon communication dated 7 July 2024 issued by Dombivli Police Station informing the mother of Respondent No.2 that prohibitory action has been initiated against Rahul Vijay Patil, Vijay Dattu Patil and the Appellant under provisions of Section 107 of the Code of Criminal Procedure in connection with complaint of issuing threats to kill the Respondent No.2.

6) From the submissions of Mr. Kazi and Mr. Navale it appears that there are several complaints and cross complaints filed by the parties against each other. So far as the FIR in C.R. No. 0012 of 2024 is concerned, it appears that initially offences under provisions of the SC & ST Act were not added. This is so because the Appellant does not belong to scheduled caste or scheduled tribe category. It however appears that since the wife of the Appellant belongs to Scheduled Caste category, subsequently offences under provisions of Section 3(1)(w)(i) and 3(1)(w)(ii) of SC & ST Act are added. However, perusal of the FIR statement does not *prima facie* indicate that the alleged acts are committed only with the intention of humiliating the wife of the Complainant. Admittedly, there are no caste based utterances reflected from the FIR statement. It therefore becomes difficult to believe at this stage as to whether any offence under the SC & ST Act would ultimately be proved.

7) The learned Special Judge has exercised the discretion in granting anticipatory bail to Respondent Nos. 2 and 3. After considering the facts and circumstances of the present case, the Appellant is not able to make out any element of perversity in the findings recorded by the learned Special Judge while granting anticipatory bail to Respondent Nos. 2 and 3. Therefore, no case is made out warranting any interference in the order dated 15 May 2024. So far as the allegation of threats given by Respondent Nos. 2 and 3 to the Appellant are concerned, the learned Judge has already directed Respondent Nos. 2 and 3 to attend Dombivli Police Station once a week on every Saturday. The learned Judge has further restrained Respondent Nos. 2 and 3 from pressurizing the Informant, his wife or any other witnesses from tampering with the evidence. In the event, it is found that the Respondent Nos. 2 and 3 have violated any of the conditions imposed by the learned Special Judge while granting anticipatory bail, not only prosecution, but Appellant would also be at liberty to apply before the learned Special Judge for cancellation of the anticipatory bail.

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

[SANDEEP V. MARNE, J.]