

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPEAL NO.953 OF 2024

Nagnath Vitthal Jagadale
V/s.

....Appellant

The State of Maharashtra and Anr.

...Respondents

Mr. Shailesh Chavan i /b. *Mr. Ajinkya D. Sangitrao for the Appellant.*

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

Mr. B.C. Ghadge, PC, Akluj Police Station, present.

CORAM : SANDEEP V. MARNE, J.

Dated : 2 September 2024.

P.C.:

1) This is an appeal under Section 14-A of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 (**SCST Act**) challenging order dated 3 July 2024 passed by the learned Additional Sessions Judge, Barshi, rejecting the application for grant of pre-arrest bail to the Appellant in connection with C.R. No.152 of 2024 registered with Tembhurni Police Station, District-Solapur (rural) for the offences punishable under Sections 323, 324, 504 and 506 r/w 34 of the Indian Penal Code, 1860 and Sections 3(1)(r), 3(1)(s) and 3(2)(va) of the SCST Act.

2) I have heard the learned counsel appearing for the Appellant and the learned APP appearing for the Respondent-State.

3) Perusal of the FIR would *prima facie* indicate that two incidents occurred on 21 March 2024. The first incident is shown to have occurred at 11.30 a.m. when the Appellant apparently made caste-based utterances to the Complainant. The second incident is shown to have occurred at 3.30 p.m. on the very same day when the three accused apparently assaulted the Complainant in presence of several eye witnesses. So far as the second incident of 3.30 p.m. is concerned, the FIR statement indicates caste-based utterances in addition to allegation of assault. It appears that the said utterances in respect of the second incident of 3.30 p.m. were made in presence of other persons. Accused Nos.2 and 3, against whom there are allegations of assault as well as caste-based utterances, are granted pre-arrest bail by the learned Sessions Judge. In respect of the second incident, the FIR statement is silent about the exact accused who made the concerned utterances. Therefore, Appellant *prima facie* deserves parity in respect of the second incident of 3.30 p.m. So far as the first incident of 11.30 a.m. is concerned, the same is attributed to the Appellant alone. However, the FIR statement does not indicate presence of any other person when the said utterances were made. *Prima facie* it appears that an incident has not taken place in public view. Therefore, bar under Section 18 of the SCST Act would not apply in respect of the first incident at 11.30 a.m.

4) It also appears that the Appellant was on interim protection granted by the learned Sessions Judge on 30 May 2024. Investigations are already complete and charge-sheet has been filed. Weapons have been recovered. In that view of the matter, custodial interrogation of the Appellant appears to be *prima facie* not necessary. Therefore, Appellant deserves to be granted interim protection till Respondent No.2 puts his appearance.

5) Issue notice to Respondent No.2, returnable on **23 September 2024**. The Investigating Officer shall record statement of Respondent No.2 as to whether he is desirous of engaging private Advocate or seeks to avail the services of Legal Aid Panel Advocate. The statement shall be produced before the Court on the next date of hearing.

6) Till the next date of hearing, in the event of arrest of the Appellant in connection with C.R. No.152 of 2024 registered with Tembhurni Police Station, District-Solapur (rural) for the offences punishable under Sections 323, 324, 504 and 506 r/w 34 of the Indian Penal Code, 1860 and Sections 3(1)(r), 3(1)(s) and 3(2)(va) of the SCST Act, he shall be released on interim bail on furnishing PR bonds in the sum of Rs.25,000/- with one or two solvent sureties in the like amount on the following terms and conditions:-

(a) The Appellant shall attend each date of hearing before the Trial Court unless exempted.

(b) Appellant shall furnish identity and address proof of himself and of his two blood relatives while furnishing sureties.

(c) The Appellant shall not directly or indirectly tamper with the evidence in any manner.

(d) Appellant shall not attempt to contact the Complainant or any of the witnesses associated with the case.

[SANDEEP V. MARNE, J.]