

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO.1174 OF 2024

Anand Tanaji Dhaygude
V/s.

...Appellant

The State of Maharashtra and Anr.

...Respondents

Mr. Viresh Purwant *for the Appellant.*

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

Mr. B.K. Ghorpade H.C. Karmala Police Station, present.

CORAM : SANDEEP V. MARNE, J.

Dated : 25 October 2024.

P.C. :

1. This is an appeal filed under the provisions of Section 14-A of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocity) Act, 1989 (**SCST Act**) challenging order dated 18 October 2024 passed by the learned Additional Sessions Judge-1, Barshi, rejecting the application filed by the Appellant for grant of pre-arrest bail under Section 482 of the Bhartiya Nagarik Suraksha Sanhita (**BNNS**) in connection with Crime No.647 of 2024 registered with Karmala Police Station for the offences punishable under Sections 115, 118(1), 3(5), 351(2) and 352 of Bhartiya Nyay Sanhita, 2023 (**BNS**) and Sections 3(1)(r), 3(1)(s), 3(2)(va) of the SCST Act.

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2. I have heard Mr. Purwant, the learned counsel for the Appellant and Ms. Anuja Gotad, the learned APP for Respondent - State.

3. Learned APP would invite my attention to 5 antecedents against the Appellant. However, perusal of the said antecedents would indicate that there are three non cognizable complaints and two FIRs registered under the provisions of Sections 323, 324 and 504 r/w 34 of the IPC.

4. Mr. Purwant would submit that said two FIRs are lodged in connection with dispute between Dhaygude family in respect of land. He further submits that uncle of the Complainant -Nana More supports the opposite of Dhaygude group and therefore the Appellant is sought to be falsely implicated in the present case. It appears that all the aforesaid Sections under the BNS except Section 118(1) are bailable. Section 118 (1) corresponds to Section 324 of the IPC, which was bailable on account of non-notification of the amendment making the same non-bailable. So far as the offence under the SCST are concerned, it prima facie appears that no third person has heard the alleged caste-based abuses. It therefore becomes difficult to believe at this stage that any act covered by Sections 3(1)(r) and 3(1)(s) of the SCST Act is committed in public view. The FIR also indicates that the Complainant has not suffered any grievous injuries. The Complainant has alleged assault by the aged parents of the Appellant. Since ingredients of offence under Sections 3(1)(r) and 3(1)(S) of the SCST Act are not met, bar under provisions of Section 18 of the SCST Act would not apply to the present case. In that view of the matter, Appellant deserves to be granted interim protection till Respondent No.2 puts in his appearance.

5. Issue notice to Respondent No.2, returnable on **27 November 2024**. 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. In the meantime, in the event of arrest of the Appellant in connection with Crime No.647 of 2024 registered with Karmala Police Station for the offences punishable under Sections 115, 118(1), 3(5), 351(2), 352 of BNS and Sections 3(1)(r), 3(1)(s), 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.

7. The Appellant shall remain present before the Investigating Officer on 12 November 2024 and 13 November 2024 between 11.00 a.m. to 2.00 p.m and shall cooperate with the conduct of investigation.

8. Appellant shall not contact the informant or any other witnesses acquainted with the facts of the case nor shall tamper with the evidence either directly or indirectly.

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

[SANDEEP V. MARNE, J.]