

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

CRIMINAL APPEAL NO.1264 OF 2024

Amol Shankar Raut

...Appellant

V/s.

The State of Maharashtra and Anr.

...Respondents

Mr. Om Latpate *for the Appellant.*

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

Mr. Sushil D. Shinde, *(through VC) for Respondent No.2.*

Mr. S.V. Raut, API, Indapur Police Station, present.

CORAM : SANDEEP V. MARNE, J.

DATED : 20 December 2024.

P.C.:

1) This is an Appeal filed under the provisions of Section 14-A of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 challenging the order dated 16 November 2024 passed by the learned Additional Sessions Judge, Baramati, rejecting the Application preferred by the Appellant for grant of bail in connection with C.R. No.649 of 2024 registered with Indapur Police Station, District-Pune, for the offences punishable

under Sections 352, 351(2), 191(2), 190, 189(2), 118(1), 115(2) of the Bhartiya Nyaya Sanhita, 2023 (**BNS**), Sections 3(1)(r), 3(1)(s) and 3(2)(va) of the SCST Act and Section 7(1)(d) of the Protection of Civil Rights Act, 1955.

2) Mr. Latpate, the learned counsel appearing for the Appellant would submit that the Appellant is in custody for four and half months and investigations *qua* him are already complete. He would further invite my attention to the injury certificate in support of his contention that injury allegedly suffered by the Complainant are simple in nature. He would submit that all the BNS offences are otherwise bailable. He would further submit that mere inability of the Police to arrest the other accused cannot be a reason for continued incarceration of the Appellant. He would further submit that though the learned Special Judge has relied upon CCTV footage, the same does not form part of the charge-sheet filed by the Police. He would accordingly pray for release of the Appellant on bail.

3) The Appeal is opposed by Mr. Shinde, the learned counsel appearing for Respondent No.2. He would submit that despite availability of CCTV footage, which was presented for perusal before the learned Special Judge, the Police has not recovered the same. He would submit that the other accused in the case are absconding and if the Appellant is released on bail, the same would assist the other accused to continue to remain absconded. The Appellant is the main mastermind in the case

and his release at this stage would have adverse impact on ongoing investigation *qua* the other accused. He would submit that the Appellant is likely to assist other accused and tamper the evidence in the case. That nature of allegations against the Appellant are serious in nature. That therefore, the Appellant's Appeal be dismissed.

4) The Appeal is also opposed by Ms. Gotad, learned APP appearing for Respondent No.1 -State. She would submit that there is a specific allegation of assault being committed with a view to prevent the Complainant from doing his business. Additionally, there are clear caste-based utterances ascribed to the Appellant. That therefore, the offence under the SCST Act can clearly be proved against the Appellant. She would accordingly pray for dismissal of the Appeal.

5) Having considered the submissions canvassed by the learned counsel appearing for the parties, it is seen that Appellant was arrested on 31 August 2024 and by now period of more than four months has passed. In the FIR the allegation is about alleged assault committed on the Complainant for having shown the audacity to run a shop. The FIR statement alleges that the Appellant wants to conduct the shop in the village and was disturbed with a person belonging to Matang community running the shop. No doubt, the FIR statement contains allegations with regard to caste-based abuses as well as attempt to interfere with the business conducted by the Complainant,

however, the Appellant has already been arrested and therefore this is no question of application of bar under the provisions of Section 18 or 18A of the SCST Act. The only issue that needs to be decided at this stage is whether Appellant can be continued in incarceration after completion of investigation and filing of charge-sheet *qua* him. Perusal of injury certificate indicates that the Complainant has suffered only simple injury during the alleged assault. It appears that the BNS offences are otherwise bailable. Merely because the police have not been able to arrest the other accused despite passage of four long months, Appellant cannot be continued in custody indefinitely. Arrest of other accused as well as recovery of CCTV footage are all matters, over which Appellant does not have any control. If Respondent No.2 really possesses the CCTV footage, the Police can always recover the same from him. Therefore, non-arrest of other accused and failure of the police to recover CCTV footage cannot be a ground for continuing the custody of the Appellant. The learned APP in fact, confirms the position that Police have already recovered CCTV footage from the Complainant. The Trial in the case is not likely to be commenced or concluded in near future. In that view of the matter, Appellant deserves to be released on bail.

6) I accordingly, proceed to pass the following order:-

- (i) Order dated 16 November 2024 passed by the learned Additional Sessions Judge, Baramati, is set aside.

- (ii) The Appellant, who is arrested in connection with C.R. No.649 of 2024 registered with Indapur Police Station, District-Pune, for the offences punishable under Sections 352, 351(2), 191(2), 190, 189(2), 118(1), 115(2) of the Bhartiya Nyaya Sanhita, 2023 (**BNS**), Sections 3(1)(r), 3(1)(s) and 3(2)(va) of the SCST Act and Section 7(1)(d) of the Protection of Civil Rights Act, 1955, shall be released on bail on furnishing PR bonds in the sum of Rs.25,000/- with one or two solvent sureties in the like amount.
- (iii) The Appellant to remain present before the Investigating Officer as and when summoned for the purpose of investigation and co-operate with the investigation.
- (iv) Appellant shall not contact the Complainant or any other witnesses acquainted with the facts of the case nor shall tamper with the evidence either directly or indirectly.
- (v) The Appellant shall attend each and every date before the Trial Court unless exempted from personal appearance.

7. With the above directions, the Appeal stands disposed of.

[SANDEEP V. MARNE, J.]