

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL (ST.) NO. 17144 OF 2024
WITH
INTERIM APPLICATION NO. 3249 OF 2024

Baban Harichandra Chavan

....Appellant

: **Versus** :

State of Maharashtra & Anr.

....Respondents

Ms. Sakshi S. Mane, *for the Appellant.*

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

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

PSI Mr. M.E. Bhagat, *from Daund Police Station present.*

CORAM : SANDEEP V. MARNE, J.

Dated : 18 November 2024.

P.C. :

1) This is an Appeal filed under the provisions of Section 14 of the Scheduled Castes & Scheduled Tribes (Prevention of Atrocities) Act, 1989 (**SCST Act**) challenging order dated 18 April 2024 passed by the learned Additional Sessions Judge, Baramati rejecting the application filed by the Appellant for anticipatory bail in connection with Crime No.51/2020 registered with Daund Police Station for the offences punishable under Sections 354, 324, 323, 143, 147, 148, 149, 504, 506 of

the Indian Penal Code and Sections 3(1)(r), 3(1)(s), 3(1)(va) of the SCST Act and Section 7 of the Protection of Civil Rights Act.

2) I have heard Ms. Mane, the learned counsel appearing for the Appellant, Ms. Kondekar, the learned counsel appointed from legal aid panel to represent Respondent No.2 and Ms. Gotad, the learned APP appearing for the State.

3) The main opposition for grant of anticipatory bail to the Appellant by Ms. Kondekar is the fact that the Applicant's earlier bail application for anticipatory bail being Criminal Bail Application No. 194/2020 was rejected by the learned Special Court and that the Appellant remained absconding for the last four long years. She would submit that accordingly the police have filed chargesheet against the appellant under the provisions of Section 299 of the Code of Criminal Procedure (**Code**). She would submit that Sachin Chavan who apparently has similar role to that of the Appellant was never granted anticipatory bail and he came to be arrested and later released on regular bail. She would therefore submit that the Appellant must surrender before the Court and cannot file a fresh application for anticipatory bail after expiry of period of four long years. She would rely upon judgment of the Apex Court in **Lavesh Versus. State of (NCT of Delhi)**¹.

4) It is seen that the main assailant in the present petition is Accused No.3-Deepak Jadhav. The role ascribed to the Appellant and Sachin Chavan appear to be identical. It is alleged that the said two accused abused the Complainant with reference to his caste on 3

¹ (2012) 8 SCC 730

February 2020. There is no allegation of assault so far as Accused-Sachin Chavan and Baban Chavan are concerned. It appears that Accused No.3-Deepak Jadhav, who is the main assailant in the present case is granted anticipatory bail by the learned Special Court vide order dated 5 September 2020. The entire investigations into the crime are complete and chargesheet has been filed. True it is that the Appellant's previous application for grant of anticipatory bail has been rejected in the year 2020. However, considering the nature of allegations in the FIR against the Appellant, I do not see any reason why his custodial interrogation at such belated stage would be warranted. The judgment in **Lavesh** (supra) would have no application to the facts of the present case where there is no proclamation issued against the Petitioner. Therefore, on account of lack of *prima-facie* case for making out offences of the SCST Act, the bar under the provisions of Section 18 of the Act would not be attracted in the present case. The Appellant is otherwise on interim protection granted by this Court on 25 September 2024. In that view of the matter, the interim protection granted in favour of the Appellant deserves to be made absolute and I accordingly proceed to pass the following order :

(i) Order dated 18 April 2024 passed by the learned Additional Sessions Judge, Baramati is set aside.

(ii) In the event of arrest of the Appellant in Crime No. 51/2020 registered with Daund Police Station, he shall be released on bail on furnishing P.R. Bond in the sum of Rs.25,000/- with one or two solvent sureties in the like amount.

(iii)Appellant shall appear before the Investigating Officer on 2nd and 3rd December 2024 and co-operate in the investigation.

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

(v)Appellant shall not pressurize the informant or any other witnesses acquainted with the facts of the case nor shall tamper with the evidence either directly or indirectly.

(vi)Appellant shall remain present on every date before the Trial Court, unless exempted. Two consecutive defaults in appearance, shall entitle the prosecution to apply for cancellation of bail.

5) With the above directions, the Appeal is **allowed and disposed of**. Interim Application also stands disposed of.

[SANDEEP V. MARNE, J.]