



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR

CRIMINAL APPEAL NO. 97 OF 2024

APPELLANT: Mohammad Imran Sheaikh Rasool,
Aged about 33 years, Occu- Labour,
R/o Inspector Nagar, Washim, By-pass
Akola, Tq. and District Akola.

...V E R S U S...

RESPONDENTS 1] State of Maharashtra,
through Police Station Officer,
Police Station Old City, Akola,
Tq. & District Akola.

2] Yuvraj Sahebrao Bhagwat,
Aged about 23 years,
R/o Inspector Nagar, Washim By-pass
Akola, Tq. and Dist. Akola.

3] Gajanan s/o Kashinath Kamble,
Aged about 50 years, Occu: Social Worker,
R/o Siddhart Wadi, Washim Bye-pass,
Akola.

Mr. S.V. Sirpurkar, counsel counsel for appellant.
Mr. Nitin Autkar, APP for Respondent No.1.
None for Respondent Nos. 2 and 3.

CORAM : **URMILA JOSHI-PHALKE, J.**
DATE : **07/03/2024**

ORAL JUDGMENT :

1. Though respondent Nos. 2 and 3 were served but
none appeared on their behalf.

2. **Admit.** Heard finally with the consent of learned counsel appearing for the parties.

3. By preferring this appeal, the appellant has challenged the order passed by the Special Judge and Additional Sessions Judge, Akola in Criminal Misc. Application No. 873/2023 rejecting the application for grant of pre-arrest bail.

4. The informant lodged the report against the present appellant, on an allegation that the victim(s) belongs to the Scheduled Caste and they were abused on their caste, and assaulted by the present appellant. On the basis of said report, the Police have registered the crime under Sections 327, 324, 294, 506 read with Section 34 of the Indian Penal Code, 1860 and under Sections 3(1)(r)(s), 3(2) (va) of the Scheduled Caste and Scheduled Tribes (Prevention of Atrocities) Act, 1989 (for short the Act of 1989).

5. Learned counsel for the applicant Mr. S. V. Sirpurkar, submitted that as far as the application of the appellant and the provision of the Act of 1989 is concerned, admittedly the recitals of the FIR nowhere shows that the informant was abused on his caste. Therefore, the bar under Section 18-A is not attracted. Moreover, the informant has filed an affidavit before the learned

trial Court informing that, they have settled the dispute and the custodial interrogation of the present appellant is not required, and therefore, he be protected by granting pre-arrest bail.

6. Learned APP strongly opposed the appeal on the ground that the bar under Section 18-A is attracted and therefore, the application for anticipatory bail is not maintainable. The learned trial Court has rightly rejected the application and prays for rejection of the appeal.

7. Having heard learned counsel for the appellant and learned APP for the State, perused the investigation papers. It reveals that during the pendency of the application before the trial Court, both the parties have settled their dispute. It further reveals from the recitals of the FIR that though it is alleged that the appellant has abused on the caste but the exact abuses are not mentioned in the FIR. It is well settled that mere reference of the caste is not sufficient to attract the provisions of Section 18-A of the Act of 1989. Considering the fact that, both parties have settled their dispute moreover, the offence alleged against the provision of the Act of 1989 is not attracted, and therefore, no prima-facie case is made out against the present appellant. The appellant can be protected by granting pre-arrest bail. Considering

the above circumstances, I proceed to pass the following order:

- a) The criminal appeal is **allowed**.
- b) The order passed by the learned District and Additional Session Judge, Akola in Criminal Bail Application No. 871/2023 dated 09/12/2023 is hereby quashed and set aside.
- c) In the event of his arrest, the appellant – **Mohammad Imran Shaikh Rasool** shall be released on anticipatory bail, in connection with Crime No. 466/2023 registered with Police Station Old City, Akola, Tq. and District Akola for the offences punishable under Sections 327, 324, 294, 506 read with Section 34 of the Indian Penal Code, 1860 and under Sections 3(1) (r & s), 3(2) (va) of the Scheduled Caste and Scheduled Tribes (Prevention of Atrocities) Act, 1989, on executing PR Bond in the sum of Rs. 25,000/- with one solvent surety in the like amount.
- d) The appellant shall not induce, threat or promise any witnesses who are acquainted with the facts of the present case.

The Criminal Appeal is **disposed of** accordingly.

[URMILA JOSHI-PHALKE, J.]