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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY**  
**NAGPUR BENCH : NAGPUR**

**CRIMINAL APPEAL NO.131 OF 2024**

Leela Vijay Mate,  
Aged about 32 Years,  
Occupation – Household,  
R/o Borkhedi, Tahsil Lonar,  
District – Buldhana.

**.... APPELLANT**

**// VERSUS //**

1] State of Maharashtra,  
Through Police Station Officer,  
Police Station, Mehkar,  
Tahsil Mehkar, District Buldhana.

2] Varsha Gautam Jadhav,  
Aged ab out 35 Years,  
Occupation – Household,  
R/o Borkhedi, Tahsil Lonar,  
District – Buldhana.

**.... RESPONDENTS**

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Mr. A. S. Dhore, Advocate for appellant.  
Ms. Swati Kolhe, APP for respondent No.1/State.  
Mr. A. V. Wankhede, Advocate for respondent No.2.  
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**CORAM : URMILA JOSHI-PHALKE, J.**  
**DATED : 02.05.2024**

**ORAL JUDGMENT :**

1. Heard.

2. **Admit.**

3. By preferring this appeal, the appellant has challenged the order dated 15.02.2024 passed by the learned Special Judge Mehkar, District Buldhana, by which the anticipatory bail application of the present appellant is rejected.

(2)

4. The accusation against the present appellant is on the basis of report lodged by the informant Varsha Gautam Jadhav alleging that there is a previous enmity between her family and the family of the present appellant. It is alleged that present appellant asked her to pay Rs.5,000/- and accordingly, she has given Rs.5,000/-, but as agreed the appellant has not provided her loan from Bachat Gat. On 27.01.2024 at about 8.00 p.m. she had been to the house of the present appellant and demanded her amount, at that time present appellant hold her hairs and assaulted her, at the relevant time the brother of the present appellant came there, he has also assaulted her and present appellant abused the informant by saying "हि महारीन खुप माजली आहे, हिचा आता माज जिरवा". On the basis of the said report, police have registered the crime against the present appellant.

5. Learned Counsel for the appellant submitted that as far as the recitals of the FIR are concerned, except the reference of the caste, there is no other allegation against the present appellant to show that she has committed the offence under the provisions of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act. He submitted that now other co-accused are already released on bail. The investigation is already practically completed, further investigation is not required by taking the present appellant into the custody and

(3)

nothing is to be recovered from her. He submitted that as far as bar under Section 18 of the Act of 1989 is concerned, which is not attracted as no *prima facie* case is made out against the present appellant.

6. Learned APP strongly opposed the said appeal on the ground that considering the recitals of the FIR wherein the informant specifically alleged that the appellant was abused on her caste and therefore, the application deserves to be rejected.

7. Learned Counsel for the respondent No.2 also endorsed the same contention and submitted the additional affidavits of two witnesses to show that the informant was abused by the present appellant on her caste.

8. After hearing the learned Counsel for the appellant, learned APP for the State and learned Counsel for the respondent No.2, perused the investigation papers. From the recitals of the FIR, it reveals that there was a previous dispute between the informant and present appellant as present appellant has obtained the amount of Rs.5,000/- on the pretext of providing her Bachat Gat loan. After accepting the amount, she has not repaid the said amount and therefore, informant had been to her house to receive the said amount back and the quarrel took place. As per the allegation of the informant, the present appellant has referred her caste and abused her and

(4)

therefore, the provisions of Atrocities Act are made applicable. It is submitted by the learned Counsel for the appellant that mere reference of the caste is not sufficient to attract the provisions and therefore, the bar under Section 18 of the Act of 1989 is not attracted.

9. Per contra, learned APP submitted that considering the specific allegation against the present appellant that she abused the informant on her caste, the bar under Section 18 of the Act of 1989 is attracted and therefore, the application for anticipatory bail is not maintainable. Learned APP further submitted that learned trial Court has rightly rejected the application, in view of that, the present appeal is devoid of merits and liable to be dismissed. Learned Counsel for the respondent No.2 endorsed the same contention.

10. On perusal of the entire statements on record, it reveals that while abusing the informant her caste was referred by the present appellant. In **Virendra Singh Vs. State of Rajasthan** reported in **2000 CRI.L.J. 2899** wherein the Full Bench of the Rajasthan High Court held that if a person is even alleged of accusation of committing an offence under the Act of 1989 the intention of Section 18 is clearly to debar him from seeking the remedy of anticipatory bail and it is only in the circumstances where there is absolutely no material to infer as

(5)

to why Section 3 has been applied to implicate a person for an offence under the Act of 1989 the Courts would be justified in a very limited sphere to examine whether the application can be rejected on the ground of its maintainability. What is intended to be emphasized is that while dealing with an application for anticipatory bail, the Courts would be justified in merely examining as to whether there is at all an accusation against a person for registering a case under Section 3 of the Act of 1989 and once the ingredients of the offence are available in the FIR or the complaint, the Courts would not be justified in entering into a further inquiry by summoning the case diary or any other material as to whether the allegations are true or false or whether there is any preponderance of probability of commission of such an offence. Such an exercise is intended to put a complete bar against entertainment of application of anticipatory bail which is unambiguously laid down under Section 18 which is apparent from the perusal of the Section itself and thus, the Court at the most would be required to evaluate the FIR itself with a view to find out if the facts emerging there from taken at their face value disclosed the existence of the ingredients constituting the alleged offence.

11. The same view is taken by this Court also in  
**Ratnakala Martandrao Mohite Vs. The State of**

(6)

**Maharashtra and anr.** reported in **2020 ALL MR (Cri) 334** and **Jagdish Sajjankumar Banka Vs. The State of Maharashtra and anr.** reported **2023 All MR (Cri.) 2911.** The Hon'ble Apex Court in the case of **Vilas Pandurang Pawar and anr. Vs. State of Maharashtra and ors.** reported in **2012 ALL MR (Cri.) 3743 (S.C.)** wherein also it is held that no Court shall entertain application for anticipatory bail in the offence registered under the provisions of the Act of 1989, unless it prima facie finds that such an offence is made out.

12. In the light of the above observations, I have given the considerations to the rival submissions of both the parties and also perused the various decisions of this Court as well as the decision of the Full Bench of the Rajasthan High Court.

13. After perusal of the FIR, the FIR was lodged against the present appellant *prima facie* it reveals that the allegation against the present appellant is that she pulled her hair and assaulted the informant. The basic ingredient of Sections 3(1)(r) (s) are that there must be "intentional insult" with intent to humiliate a member of a Scheduled Caste or Schedule Tribe in any place within public view. Mere reference of the caste is not sufficient to amount insult or to abuse him. It cannot be said that said reference is with intent to humiliate such person.

(7)

14. The allegation against the present appellant is that she called the informant by her caste. Thus, in view of the above observations, as mere reference of the caste is there therefore, bar under Section 18 of the Act of 1989 will not attract, in view of that, the appeal deserves to be allowed. Accordingly, I proceed to pass following order.

**ORDER**

- (i) The appeal is allowed.
- (ii) The appellant **Leela Vijay Mate** shall be released on bail on executing PR bond in the sum of Rs.25,000/- with one solvent surety in the like amount, in connection with Crime No.54/2024 registered with Police Station Mehkar, District Buldhana for the offences punishable under Sections 323, 504, 506 read with Section 34 of the Indian Penal Code and Sections 3(1)(r), 3(1)(s), 3(1)(u) and 3(2)(va) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989.
- (iii) The order dated 15.02.2024 passed by the learned Special Judge, Mehkar, District Buldhana rejecting the Bail Application No.22/2024 is hereby quashed and set aside.
- (iv) The appellant shall not induce, threat or promise any witnesses who are acquainted with the facts of the case.

15. The appeal is disposed of.

**(URMILA JOSHI-PHALKE, J.)**