



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

CRIMINAL APPEAL NO. 265 OF 2024

APPELLANTS:

- 1] Balram s/o Holamal Kashelani,
Aged about 71 years, Occu: Business;
- 2] Sanjay S/o Vasantrao Lanjudkar,
Aged about 57 years, Occu: Farmer;
- 3] Shrikant s/o Gajanan Nemade,
Aged about 35 years, Occu: Service,
All R/o SBI Colony, Muktai Nagar,
Shegaon, Tq. Shegaon, District Buldhana.

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

RESPONDENTS

- 1] State of Maharashtra,
through Police Station Officer,
Police Station Shegaon,
Tq. Shegaon, District Buldhana.
- 2] Arjun s/o Rameshwar Shegokar,
Aged about 26 years, Occu: Farm Labour,
R/o Nagjhari Road, Shegaon.

Mr. A. Vastani, counsel for appellants.

Mr. K.R. Lule, APP for respondent/State.

Mr. A.S. Londhe, counsel (appointed) for the respondent No.2.

Ms. Anuprita S. Mishrikotkar (appointed) for the respondent No.2.

CORAM : **URMILA JOSHI-PHALKE, J.**
DATE : **19/07/2024**

ORAL JUDGMENT :

1. Heard.

2. **Admit.**

3. Heard finally with the consent of learned counsel appearing for the parties.

4. The present appeal is preferred by the appellants under Section 14(A)(2) of the Scheduled Caste and Scheduled Tribes (Prevention of Atrocities) Act, 1989, and challenged the order passed by the learned Special Judge and Additional Sessions Judge, Khamgaon, District Buldhana, in anticipatory bail application bearing No.122/2024, by which the prayer of the present appellants for grant of anticipatory bail is rejected.

5. The appellants are prosecuted for the offence punishable under Sections 427, 504, and 506 read with Section 34 of the Indian Penal Code and Sections 3(1)(r), 3(1)(s), 3(2) (va) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 (hereinafter referred as 'the Act of 1989'). The appellants are apprehending the arrest at the hands of police, in connection with the said crime, as the crime is registered on the allegation that on 22/03/2024 in S.B.I. Colony Shegaon, the informant has erected the board of his name and the name of Balkisan Sudhakar Chimankar. The landowner, Anuradha Kulkarni, has given him permission to clean the said land, and therefore, he

has cleaned the said land. At the relevant time, the present appellants approached to him and abused him on his caste by saying that he will not allow the persons who are Bouddha to stay at the same place and abused and threatened him. On the basis of the said report, police have registered the crime against the appellants.

6. Learned Counsel for the appellants submitted that on perusal of the recitals of the FIR, mere reference of the caste is mentioned. There is no specific allegation that the present appellants have hurled abuses to the informant based on his caste. A mere reference of the caste is not sufficient to attract the provisions of the Atrocities Act. He submitted that, considering the allegations, the offence is not made out against the appellants therefore, the bar under Section 18-A of the Act of 1989 is also not attracted therefore, the interim protection granted to the present appellants deserves to be confirmed. He further submitted that learned trial Court has not considered this aspect erroneously and rejected the application for bail, which deserves to be quashed and set aside.

7. Learned APP strongly opposed the said appeal on the ground that the present appellants have used the word and abused

the informant knowingly, humiliating and insulting him. Thus, the ingredients of Section 3(1)(r) of the Act of 1989 are satisfied, in view that, the appeal is devoid of any merits and liable to be dismissed.

8. Learned appointed counsel for respondent No. 2 reiterated the said contentions and also submitted that the reference of the caste with the intention to humiliate the informant is sufficient to attract the provisions of Section 18-A of the Act of 1989.

9. After hearing learned counsel for the appellant and learned APP for the State as well as learned counsel for the respondent No.2, perused the order passed by the learned trial court as well as the FIR, which reveals that the only allegation against the present appellants is that they have referred to the caste of the present informant. As far as the abuses are concerned, a general statement is made. The exact abuses are not mentioned by the informant. Considering that the appellants are protected by granting ad-interim protection, they have cooperated with the investigating agency, and there is no complaint that they have misused the liberty granted to them. It is also well settled that when prima-facie case is not made out, the bar under Section 18-A

is not attracted, and the anticipatory bail is maintainable. Considering that the ingredients of Section 3(1)(r) are not fulfilled and mere reference of the caste is not sufficient to attract the bar under Section 18-A, the appeal deserves to be allowed. Accordingly, I proceed to pass the following order:

ORDER

- (a) The criminal appeal is allowed.
- (b) In the event of the arrest, the appellants (1) Balram s/o Holamal Kashelani (2) Sanjay s/o Vasantrao Lanjudkar (3) Shrikant s/o Gajanan Nemade shall be released pm anticipatory bail, in connection with Crime No.170/2024 registered with Police Station Shegaon, District Buldhana for the offences punishable under Sections 427, 504, 506 read with Section 34 of the Indian Penal Code and Sections 3(1)(r), 3(1)(s), 3(2) (va) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989, on executing PR bond in the sum of Rs.25,000/- each with one solvent surety in the like amount.
- (c) The order passed by the learned Additional Sessions Judge, Khamgaon, District Buldhana in Criminal Bail Application No. 122/2024 is hereby quashed and set aside.
- (d) The appellants shall attended the concerned Police

Station as and when required for the investigation purpose and shall cooperate with the investigating agency.

- (e) The appellants shall not induce, threat or promise any witnesses who are acquainted with the facts of the case.
- (f) The fees of the appointed counsel be quantified as per Rule.

Criminal Appeal is disposed of accordingly.

[URMILA JOSHI-PHALKE, J.]