



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

CRIMINAL APPEAL NO.299 OF 2024

- 1) Mohan Sunil Munde,
Age 22 years,
Occupation – Labour,
R/o Lapali, Tal – Motala,
District Buldhana
- 2) Dipak Suresh Renuke,
Age – 28 years,
Occupation – Labour,
R/o. Lapali, Tal – Motala,
District Buldhana

...APPELLANTS

VERSUS

1. The State of Maharashtra,
through Police Station
Dhamangaon Bade
Tal – Motala, District Buldhana
2. The Superintendent of Police
Tal & District Buldhana
3. Dhanraj Jayraj Chauke,
Age – 31 years, Occupation – Labour,
R/o. Lapali, Tal – Motala,
District Buldhana

...RESPONDENTS

Mr. S.A. Kulkarni, Advocate for the appellant.
Mr. C.A. Lokhande, APP for the State.
Ms F.N. Haidari, Advocate (appointed) for respondent No.3.

CORAM : URMILA JOSHI-PHALKE, J.

DATED : AUGUST 12, 2024.

ORAL JUDGMENT :

ADMIT. Heard finally with the consent of learned Counsel for the parties.

2. This is an appeal under Section 14A of the Scheduled Caste and Scheduled Tribe (Prevention of Atrocities) Act, 1989 (hereinafter referred to as 'the Atrocities Act' for short), the appellants have challenged the order dated 08/05/2024 whereby the Special Judge, Malkapur rejected the anticipatory bail application of the appellants bearing Criminal (Anticipatory) Bail Application No.115/2024.

3. The appellants are apprehending arrest at the hands of police in connection with Crime No.71/2024 registered with Police Station Dhamangaon Bade, District Buldhana for the offence punishable under Sections 324, 504 and 506 read with Section 34 of the Indian Penal Code, 1860 and Sections 3(1)(r), 3(1)(s) and 3(2)(va) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989.

4. The accusation against the present appellants are on the basis of the report lodged by the informant Dhanaraj Jayraj Chouke on an allegation that on 20/03/2024 at about 3.00 p.m. he and his friend

had been to the house of one Santosh Gaikwad for some construction work. At the relevant time appellant No.1 came there and assaulted them by means of plastic pipe. Appellant No.2 beat the victim with a stick. It is alleged that both the appellants abused and threatened the informant and the victim. On the basis of said report, police have registered the crime. After registration of the crime they approached to the Special Court by filing an application for grant of anticipatory bail but the same was rejected in view of the bar under Section 18 of the Atrocities Act. Being aggrieved with the same, present appeal is preferred by the appellants.

5. Learned Counsel for the appellants submitted that as far as application of provisions of Atrocities Act is concerned, there is even no whisper regarding caste of the present informant. There is no abuses on their caste also. After thought after 20 days the said allegations are made by the informant. He further submitted that he has produced the caste certificate on 01/04/2024 and thereafter his statement was recorded on 02/04/2024. He submitted that initially there was no allegation as to the abuses on the caste subsequently this allegation is made. As far as bar under Section 18 or 18A of the Atrocities Act is not attracted and general allegations are made against the present appellants.

6. Learned Additional Public Prosecutor and learned Counsel for respondent No.3 strongly opposed the prayer on the ground that in

view of bar under Section 18 and 18A of the Atrocities Act, the application is not maintainable. Hence, the appeal is devoid of merits and liable to be dismissed.

7. I have heard learned Counsel for both the parties. Perused the investigation papers from which it reveals that there is no allegation as to the abuses on the caste and subsequently after 15 days of the lodging of the FIR this allegation is made by the informant and the other witnesses. The allegation is also general in nature and if that allegation is also taken into consideration it only refers to the caste. As far as bar under Sections 18 or 18A of the Atrocities Act is concerned if the *prima facie* case is not made from the recitals of the FIR, the application for anticipatory bail is maintainable. Hence, the appellants are made out a case for grant of anticipatory bail. In view of that, the interim protection granted to the present appellants vide order dated 21/05/2024 deserves to be confirmed. Accordingly, I proceed to pass the following order :

- (i) The appeal is allowed.
- (ii) The order dated 08/05/2024 passed by the Special Judge, Malkapur in Criminal (Anticipatory) Bail Application No.115/2024, is hereby quashed and set aside.
- (iii) In the event of arrest, the appellants – 1) Mohan Sunil Munde and 2) Dipak Suresh Renuke in connection with

Crime No.71/2024 registered with Police Station Dhamangaon Bade for the offence punishable under Sections 324, 504 and 506 read with Section 34 of the Indian Penal Code, 1860 and Sections 3(1)(r), 3(1)(s) and 3(2)(va) of the Scheduled Castes and The Scheduled Tribes (Prevention of Atrocities) Act, 1989, be released on anticipatory bail on executing P.R. bond in the sum of Rs.25,000/- each with one solvent surety each in the like amount.

(iv) The appellants shall attend the concerned Police Station once in a week on Sunday between 10.00 a.m. to 01.00 p.m. and shall cooperate with the investigating agency.

(v) The appellants shall not induce, threat or promise any witnesses who are acquainted with the facts of the present case.

8. The appeal is disposed of accordingly.
9. The fees of the appointed Counsel be quantified as per rules.

(URMILA JOSHI-PHALKE, J.)