



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

CRIMINAL APPEAL NO.302 OF 2024

Avinash s/o Sahebrao Patonde
Age 35 years, Occupation – Labour,
R/o At post Shivapur,
Tq. District Akola

...APPELLANT

VERSUS

1. State of Maharashtra,
through P.S.O. P.S. Khadan,
Akola
2. Mangesh Waman Damodar
Aged about 31 years,
R/o Shivapur Taji
Akola, Khadan, Akola

...RESPONDENTS

Mr. Z.Z. Haq, Advocate for the appellant.
Mr. D.V. Chauhan, Public Prosecutor a/b Mr. N.B. Jawade, APP for the State.

CORAM : URMILA JOSHI-PHALKE, J.

DATED : SEPTEMBER 4, 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 appellant has challenged

the order dated 02/05/2024 passed by the Additional Sessions Judge, Akola rejecting the bail application of the present appellant bearing Criminal Application (ABA) No.195/2024.

3. The appellant is apprehending the arrest at the hands of police as crime is registered against him as well as against the co-accused on the basis of report lodged by Mangesh Waman Damodhar vide Crime No.302/2024. In the said report, it is alleged that there was a previous dispute between the informant and the family members of the appellants. On 18/03/2024 at about 4.00 p.m. he had been to the house of Pralhad Dhore. At the relevant time, he was assaulted by both the co-accused as well as the present appellant. It is alleged that the present appellant has assaulted him by fists and kick blows. On the basis of the said report, police have registered the crime against the present appellant.

4. Learned Counsel for the appellant submitted that the falsity of the incident appears from the documents which are collected during the investigation. He pointed out from the report submitted by the investigating agency before the Court which shows that the informant has received the injuries in an incident dated 15/03/2024. He also pointed out that on 15/03/2024 one another FIR was registered against the informant which shows that he received the injuries on 15/03/2024.

Thus, he submitted that as far as the injuries on 18/03/2024 are concerned, the contradictory material was collected by the investigating agency. He submitted that even accepting the allegation as it is, it is only alleged against the present appellant that he has assaulted by fist and kick blows. Other co-accused are already protected by this Court by granting anticipatory bail. He submitted that as far as bar under Section 18-A of the Atrocities Act is concerned will not attract as no *prima facie* case is made out against the present appellant. In view of that, the appellant be protected by granting anticipatory bail.

5. Learned Public Prosecutor for the State strongly opposed the appeal on the ground that during the investigation the Investigating Officer shows that the informant was assaulted by the present appellant as well as the other co-accused and in view of the bar under Section 18-A of the Atrocities Act, the appeal deserves to be dismissed.

6. I have heard learned Counsel for the appellant and learned Public Prosecutor for the State. Perused the entire investigation papers, from which it reveals that as far as the allegation against the present appellant is concerned to the extent of assault by fist and kick blows. The other co-accused is already released on bail by this Court by observing that there is a contradictory evidence as far as the injuries sustained by the injured are concerned. Considering the same, as no *prima facie* case

is made out against the present appellant, bar under Section 18A of the Atrocities Act is not attracted. In view of that, the appeal deserves to be allowed. Accordingly, I proceed to pass following order:

- (i) The appeal is allowed.
- (ii) The order passed by the Additional Sessions Judge, Akola dated 02/05/2024 rejecting the anticipatory bail application in Criminal Application (ABA) No.195/2024, is hereby quashed and set aside.
- (iii) In the event of arrest, the appellant - Avinash s/o Sahebrao Patonde in connection with Crime No.302/2024 registered with Police Station Khadan, Akola, District Akola for the offences punishable under Sections 323, 325, 365, 504 and 506 read with Section 34 of the Indian Penal Code and under Sections 3(2)(va), 3(1)(r), 3(1)(s) and 3(v) of the Scheduled Caste and the Scheduled Tribes (Prevention of Atrocities) Act, 1989, be released on anticipatory bail on executing PR. Bond in the sum of Rs.25,000/- with one solvent surety in the like amount.
- (iv) The appellant shall not induce, threat or promise any witnesses who are acquainted with the facts of the case.

(v) The appellant shall attend the proceeding before the learned Special Court without seeking any exemption unless there are exceptional circumstances.

(vi) The trial Court shall not be influenced by the observation made by this Court regarding the role of the present appellant.

7. The appeal is disposed of accordingly.

(URMILA JOSHI-PHALKE, J.)

**Divya*