



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

CRIMINAL APPEAL NO.362 OF 2024

Sou. Kiran alias Durga w/o Suresh Chavhan
Age 45 years, Occupation – Private/Housewife,
R/o Fawara Chowkh, Gujar Ward,
Bramhapuri, District Chandrapur

...APPELLANT

VERSUS

1. State of Maharashtra,
through Police Station Officer,
Bramhapuri Police Station,
District Chandrapur
2. Mr. Pankaj s/o Arun Tumane,
Aged about Major,
Occupation – Private,
R/o Gujar Ward, Fawara Chowkh,
Bramhapuri, District Chandrapur

...RESPONDENTS

Mr. A.S. Kesari, Advocate for the appellant.
Mr. Nitin Autkar, APP for the State.

CORAM : URMILA JOSHI-PHALKE, J.

DATED : OCTOBER 7, 2024.

ORAL JUDGMENT :

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

2. By preferring this appeal, the appellant has challenged the
order dated 10.06.2024 passed by the Additional Sessions Judge,

Chandrapur in Criminal Bail Application No.384/2024 by which the anticipatory bail application of the present appellant in connection with Crime No.190/2024 registered under Sections 294 and 506 read with Section 34 of the Indian Penal Code and under Sections 3(1)(r), 3(1)(s) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 (hereinafter referred to as 'the Act of 1989') is rejected.

3. The appellant is apprehending arrest at the hands of police as crime is registered against her along with the other co-accused on the basis of report lodged by Pankaj Arun Tumane on an allegation that during the dispute between them on account of open land the present appellant and the other co-accused abused him on his caste and also assaulted him. On the basis of said report, police have registered the crime against the present appellant and the other co-accused.

4. Learned Counsel for the appellant submitted that as far as the present appellant is concerned, the general allegation is made against her that she has abused the informant. Even on perusal of the said sentence, it reveals that it was merely a reference to the caste. He submitted that other co-accused are already released on bail. Mere reference to the caste is not sufficient to attract the provisions of the Atrocities Act, and therefore, bar under Section 18 of the Act of 1989, is not attracted.

5. Learned APP strongly opposed the said appeal on the ground that in view of bar under Section 18A of the Act of 1989, the application deserves to be rejected, and therefore, the appeal devoid of merits and liable to be dismissed.

6. After hearing the learned Counsel for the appellant and learned APP for the State, perused the recitals of the FIR as well as the investigation papers from which it reveals that general allegation is made against the present appellant and that is only to the reference of the caste. As far as the bar under Section 18 of the Act of 1989 is concerned now it is well settled that when prima facie case is not made out bar will not attract and the anticipatory bail application of the accused is maintainable. Considering the entire material on record and the recitals in the FIR, it reveals that there is only reference to the caste and omnibus allegation is made against the present appellant that she has also abused the informant on his caste. Considering the nature of the allegation made against the present appellant, no prima facie case is made out. In view of that, the order passed by the learned Special Court deserves to be quashed and set aside. Accordingly, I proceed to pass following order:

- (i) The appeal is allowed.

(ii) The order passed by the Additional Sessions Judge, Chandrapur in Criminal Bail Application No.384/2024 dated 10.06.2024 is quashed and set aside.

(iii) In the event of arrest, in connection with Crime No.190/2024 registered under Section 294 and 506 read with Section 34 of the Indian Penal Code and under Sections 3(1)(r), 3(1)(s) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989, the appellant – Sou. Kiran Alias Durga w/o Suresh Chavhan shall be released on anticipatory bail on executing P.R. bond in the sum of Rs.25,000/- with one solvent surety in the like amount.

(iv) The appellant shall attend the concerned Police Station as and when required for the investigation purpose and shall cooperate with the investigating agency.

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

7. The appeal is disposed of.

(URMILA JOSHI-PHALKE, J.)