



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

CRIMINAL APPEAL NO. 366 OF 2024

APPELLANT: Akshay Gajanan Dere,
Age 27 years, Occu: Labourer,
R/o Edlapur, Tq. Akot, District Akola.

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

RESPONDENTS 1] The State of Maharashtra,
Through P.S.O. Hiwarkhed,
Tq. Telhara, District Akola.

2] Seema Suresh Bagde,
Aged 35 years, Occu: Housewife,
R/o Chorwad, Tq. Akot, District Akola.

Mr. Vipul Babarao Bhise, counsel for appellant.
Mr. K.R. Lule, APP for respondent/State.
Mr. S.D. Dharaskar, counsel for respondent No.2.

CORAM : URMILA JOSHI-PHALKE, J.
DATE : 14/08/2024

ORAL JUDGMENT :

1. Heard.
2. **Admit.**
3. Heard finally with the consent of learned counsel appearing for the parties.
4. By preferring this appeal, the appellant has challenged the

order passed by the learned Additional Sessions Judge, Akot in Criminal Bail Application No. 89/2024, by which the application of the present appellant for grant of anticipatory bail is rejected.

5. The appellant is apprehending the arrest at the hands of police in connection with Crime No. 223/2024 registered with Hiwarkhed Police Station for offences punishable under Sections 324, 354, 354-A, 354-B, and 506 of the Indian Penal Code, 1860, and Sections 3(2), 3(2)(va), 3(1)(r), 3(1)(s), 3(1)(w)(i), and 3(1)(w)(ii) of the Scheduled Caste and Scheduled Tribes (Prevention of Atrocities) Act, 1989 (hereinafter referred to as the "Atrocities Act").

6. The crime is registered on the basis of a report lodged by Seema Suresh Bagde alleging that there was a political rivalry between her husband and the present appellant on account of the Gram Panchayat election. On 20/06/2024, the present appellant abused them based on their caste, as well as gave a blow of weapon on the head of her husband, due to which her husband has sustained the injury. On the basis of said report, police have registered the crime against the present appellant. After registration of the crime, the present appellant approached the Special Court for grant of bail, but the Special Court has rejected

the application, considering there is a bar under Section 18 of the Atrocities Act.

7. Learned counsel for the appellant Mr. V.B. Bhise submitted that, as far as the present appellant is concerned, there is no allegation against him that he has abused the informant or her husband on their caste, that allegation is levelled against the other co-accused, i.e., Amol Anasane. He submitted that, as far as the present appellant is concerned, it is the only allegation that he has given a blow by means of weapon on the head of the deceased. The deceased has sustained a simple injury in the said incident. Subsequently, he was discharged from the hospital. As far as the recovery of the weapon is concerned, the present appellant is ready to produce the same and will cooperate with the investigating agency. The custodial interrogation of the present appellant is not required. In view of that, he be protected by granting anticipatory bail.

8. Learned Additional Public Prosecutor and learned counsel for the complainant strongly opposed the said appeal on the ground that, in furtherance of common intention, the present appellant and other co-accused abused and humiliated the informant and her husband, and her husband was assaulted by the

present appellant by giving blows on his head. There is a bar under Section 18, and therefore, the learned trial Court has rightly rejected the application.

9. After hearing learned counsel for the appellant and learned counsel for the respondent, perused the order passed by the learned Special Court, which shows that, in view of the bar under Section 18, the application for grant of anticipatory bail is rejected. It is well settled that when prima-facie case is not made out, the anticipatory bail in case of the Atrocities Act is maintainable. On perusal of recitals of the FIR, it reveals that, as far as the allegation regarding the abuses of the caste is concerned, which are levelled against the co-accused. It further reveals that cross-complaints are filed by both the parties against each other, wherein the similar types of allegations are levelled against each other. As far as the present appellant is concerned, against whom the allegation is that he has given a blow by weapon on the head of the husband of the complainant, the medical certificate is on record, which shows that he has sustained the injuries, i.e., laceration and abrasion, which are simple in nature. He was treated in the hospital and thereafter discharged from the hospital. Thus, considering the role attributed to the present appellant,

admittedly, the bar would not attract against him, as no prima-facie case as far as the application of the provision of the Atrocities Act is concerned. Learned trial court ought to have considered the same while considering the application for grant of anticipatory bail, as no prima-facie case is made out against the present appellant, the bar under Section 18 is not attracted, and considering that now injured is already discharged from the hospital. As far as the custodial interrogation is concerned, which can be taken care of by imposing certain conditions on the present appellant, in view of that, the appeal deserves to be allowed. Accordingly, I proceed to pass the following order:

- a] The appeal is **allowed**.
- b] The order dated 08/07/2024 passed by learned Additional Sessions Judge, Akot in Misc. Criminal Bail Application No. 89/2024 is hereby quashed and set aside.
- c] In the event of the arrest, the appellant- Akshay Gajanan Dere, shall be released on anticipatory bail, in connection with Crime No. 223/2024 registered with Hiwarkhed Police Station for offences punishable under Sections 324, 354,

354-A, 354-B, 506 of the Indian Penal Code, 1860 and Sections 3(2), 3(2)(va), 3(1)(r), 3(1) (s), 3(1) (w)(i), 3(1)(w)(ii) of the Scheduled Caste and Scheduled Tribes (Prevention of Atrocities) Act, 1989, on executing PR. Bond of Rs. 25,000/- with one solvent surety in the like amount.

- d] The appellant shall attend the concerned Police Station once in a week on Sunday between 10.00 a.m. to 01.00 p.m. till filing of the charge-sheet.
- e] The appellant shall produce the weapon before the investigating agency, and this period will be considered as his custody for the purpose of Section 27 of the Indian Evidence Act.
- f] The appellant shall not induce, threat or promise any witnesses who are acquainted with the facts of the present case.

The criminal appeal is **disposed of** accordingly.

[URMILA JOSHI-PHALKE, J.]