



(1)

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

CRIMINAL APPEAL NO.382 OF 2024

- 1) Chhaya Namdev Wankhede,
Aged 45 Years, Occupation : Household,
 - 2) Narayan Namdev Wankhede,
Aged 20 Years, Occupation : Agril.,
 - 3) Datta Santosh Suryawanshi,
Aged 22 Years OccupationL Agril.,
 - 4) Omkesh Santosh Suryawanshi,
Aged 20 Years, Occupation Agril,
 - 5) Parmeshwar @ Swapnil Kashinath
Wankhede,
Aged 26 Years, Occupation : Agril.,
All R/o. Sakhara, Taluka Umarkhed,
District Yavatmal.
- APPELLANTS**

// VERSUS //

1. The State of Maharashtra,
through Police Station Officer,
Umarkhed, Taluka Umarkhed,
District Yavatmal.
 2. Ambadas Tukaram Muneshwar,
Age – Adult, Occupation : Labour,
R/o Village Sakhra,
Taluka – Umarkhed,
District Yavatmal.
- RESPONDENTS**

Mr. V. R. Thote, Counsel for the appellants.
Mr. K. R. Lule, APP for respondent No.1/State.

CORAM : URMILA JOSHI-PHALKE, J.
DATED : 11.12.2024

ORAL JUDGMENT :

1. **Admit.**

2. Heard finally with the consent of learned Counsel appearing for the parties.

3. By this appeal, the appellants have challenged the order dated 28/06/2024 passed by the learned Additional Sessions Judge and Special Judge, (Court No.1), Pusad in Criminal Bail Application No.128 of 2024 by which the application for anticipatory bail of the appellants was rejected.

4. Learned Counsel for the appellants submitted that the appellants are apprehending the arrest at the hands of police in connection with Crime No.234/2024 registered with Police Station Umarkhed, District Yavatmal for the offences punishable under Sections 143, 147, 148, 324, 504 and 506 read with Section 149 of the Indian Penal Code and Sections 3(1)(r), 3(1)(s) and 3(2)(va) of the Scheduled Caste and Scheduled Tribe (Prevention of Atrocities) Act, 1989 (for short 'the Atrocities Act').

5. He submitted that this FIR is lodged only to give a counterblast to the FIR lodged by the co-accused Namdeo Narayan Wankhede. As far as the application of the Atrocities Act is concerned, the specific allegation against the co-accused Namdeo. He submitted that against the present appellants only allegation is that they have assaulted him by fist blows and threatened him.

(3)

Thus, considering the same, the bar under Section 18-A of the Atrocities Act, is not attracted and therefore, they be protected by granting anticipatory bail.

6. Learned APP strongly opposed the said application on the ground that there is a bar under Section 18-A of the Atrocities Act and prayed for dismissal of the appeal.

7. Despite the notice is served on the respondent No.2. None appears for the respondent No.2.

8. After hearing both the sides and on perusal of the recitals of the FIR from which it reveals that counter FIR's are filed against each other. As far as the present appellants are concerned only allegations against them is that they have assaulted the informant by means of fist blows and also threatened that they will kill him. Besides this, there is no allegation either abuse on his caste. Thus, considering there is no allegation as far as the present appellants are concerned, regarding the abuses on the caste the bar under Section 18-A of the Atrocities Act, is not attracted. In view of that, the appeal deserves to be allowed. Accordingly, I proceed to pass following order:

ORDER

(i) The appeal is allowed.

(4)

(ii) The order passed by the learned Additional Sessions Judge and Special Judge (Court No.1), Pusad in Criminal Bail Application No.128/2024 is hereby quashed and set aside.

(iii) In the event of arrest, the appellants – **1) Chhaya Namdev Wankhede, 2) Narayan Namdev Wankhede, 3) Datta Santosh Suryawanshi, 4) Omkesh Santosh Suryawanshi** and **5) Parmeshwar @ Swapnil Kashinath Wankhede** shall be released on anticipatory bail in connection with Crime No.234/2024 registered with police station Umarkhed, District Yavatmal for the offences punishable under Sections 143, 147, 148, 324, 504 and 506 read with Section 149 of the Indian Penal Code and Sections 3(1) (r), 3(1)(s) and 3(2)(va) of the Scheduled Caste and Scheduled Tribe (Prevention of Atrocities) Act, 1989, on executing a P.R. Bond in the sum of Rs.25,000/- each with one solvent surety in the like amount.

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

(v) The appellants shall not directly or indirectly make any inducement and threat or promise to any person acquainted with the facts of the present case.

The appeal is disposed of.

(URMILA JOSHI-PHALKE, J.)