



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

CRIMINAL APPEAL NO. 398 OF 2024

APPELLANTS:

1. Sanjida Ibrahim Sheikh,
Age 49 Years, Occu: Labour,
r/o Vihirgaon,
Tah. And District Gadchiroli.
2. Ibrahim Shakur Sheikh,
Age 53 years, Occu: Labour,
R/o Vihirgaon,
Tah. And District Gadchiroli.

...VERSUS...

RESPONDENTS

1. State of Maharashtra,
through Police Station Officer,
Police Station Gadchiroli,
District Gadchiroli.
2. Ashrudhara Kapil Nimgade,
R/o Vihirgaon,
Tah. & District Gadchiroli.

Mr. S.B. Taywade, counsel for appellant.

Ms. T.H. Udeshi, APP for respondent/State.

Ms. Bhavya Dhurv, counsel (appointed) for respondent No.2.

CORAM : URMILA JOSHI-PHALKE, J.
DATE : 16/12/2024

ORAL JUDGMENT :

1. Heard.

2. Admit.

3. Heard finally with consent of learned counsel appearing for the parties.

4. By this appeal, the appellants have challenged the order passed by the learned Special Judge, Gadchiroli in Criminal Bail Application No.139/2024, by which the application of the present appellants for grant of bail in the event of their arrest is rejected.

5. The appellants are apprehending arrest at the hands of police in connection with Crime No.484/2024 registered under Sections 352, 294, 504 and 506 read with Section 34 of the Indian Penal Code, 1860 and Sections 3(1)(g), 3(2)(va), 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').

6. As per the recitals of the FIR, the accusation against the present appellants is on the basis of the report lodged by one Sau. Ashrudhara Kapil Nimgade, alleging that the present

appellants have encroached over the portion which was allotted to her by the Grampanchayat and erected the fencing on that count. She inquired with them, and at that time, appellant No. 2 abused her and also threatened her that he would kill her and came on the person by holding a Sabbal in his hand. It is further alleged that the present appellant No.1 also abused her on her caste. On the basis of the said report, police have registered the crime against the present appellants.

7. After registration of the crime, the appellants have approached the Special Court for grant of anticipatory bail, the same was rejected in view of bar under Section 18-A the Atrocities Act.

8. Heard learned counsel for the appellants, who submitted that now investigation is already completed and incarceration of the present appellants is not required. He further submitted that even accepting the allegation as it is, no prima-facie case is made out, as there is a general allegation against the present appellants, and i.e. is also to the extent of reference of the caste. In view of that, the bar under Section 18A of the Atrocities Act is not attracted, and therefore, the appellants be released on

bail.

9. Learned APP strongly opposed the said application and submitted that there is a specific allegation against the appellant No. 2 showing that he has abused the informant in a very filthy language, i.e. on her caste. Thus, there is a specific case made out by the informant. Moreover, the statements of the witnesses, including the statement of Saira Akbar Sheikh, also substantiate the said contention, which shows that appellant No.2 has not only referred to the caste but also abused her on the caste with intent to humiliate and insult her, in view of that, the bar under Section 18-A of the Atrocities Act is attracted.

10. Learned counsel for the informant also supported the said contention and submitted that in view of the bar under Section 18A of the Atrocities Act, the prayer for grant of bail of the appellant No.2 deserves to be rejected.

11. After hearing both sides and on perusal of the investigation papers, it reveals that as far as the appellant No.1 is concerned, except her presence, there is no specific allegation against her, but as far as the appellant No.2 is concerned, there is a specific allegation that he has abused on the caste and, i.e.

within public view. The alleged incident is also substantiated by the various witnesses, including the witness, namely Saira Akbar Sheikh. Thus, as far as the contention of the learned counsel for the appellants that there is only a reference of the caste is not substantiated by any material, but from the statements of the various witnesses, is that the abuses were with intent to insult and humiliate the informant, and therefore, prima-facie case is made out against the present appellant No.2. In view of that, the bar under Section 18-A of the Atrocities Act is attracted, as far as the appellant No.2 is concerned. As far as the appellant No.1 is concerned, the appeal deserves to be allowed. Accordingly, I proceed to pass the following order:

ORDER

- a] The appeal is partly **allowed**.
- b] In the event of arrest in connection with Crime No.484/2024 registered under Sections 352, 294, 504 and 506 read with Section 34 of the Indian Penal Code, 1860 and Sections 3(1)(g), 3(2)(va), 3(1)(r), 3(1)(s) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989, the

appellant **No.1 Sanjida Ibrahim Sheikh** shall be released on anticipatory bail on executing PR bond in the sum of Rs.25,000/- with one solvent surety in the like amount.

- c] The prayer of the appellant No.2 for grant of anticipatory bail deserves to be rejected.
- d] The appellant No.1 shall attend the concerned Police Station as and when required for the investigation purpose and shall cooperate with the investigating agency.
- e] The appellant No.1 shall not induce, threat or promise any witnesses who are acquainted with the facts of the case.
- f] The order passed by the Special Judge, Gadchiroli in Criminal Bail Application No. 139/2024 dated 16/07/2024 to the extent of appellant No.1 is quashed and set aside.
- g] The fees of the appointed counsel be quantified as per Rule.

[URMILA JOSHI-PHALKE, J.]