



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

CRIMINAL APPEAL NO. 450 OF 2024

APPELLANT: Ganesh s/o Ramrao Patil,
Aged about 33 years, Occu: Service,
R/o Surya Heights Apartments,
Khadaki, Akola.

...VERSUS...

RESPONDENTS 1. State of Maharashtra,
through Police Station Officer,
Police Station Khadan,
Akola.

2. Sunil s/o Dashrath Dabhade,
Aged about 52 years, Occu: Service,
R/o Khadan, Akola.

Mr. G.S. Gour, counsel for the appellant.

Mr. Phasate, APP for respondent/State.

Ms. Aastha Sharma, counsel (appointed) for respondent No.2

CORAM : URMILA JOSHI-PHALKE, J.

DATE : 30/09/2024

ORAL JUDGMENT :

1. **Admit.** Heard both the sides at the stage of admission.

2. By preferring this appeal, the appellant has challenged the order passed by the Special Judge and Additional Sessions Judge, Akola, in Misc. Criminal Application No. 468/2024, by which the application for grant

of anticipatory bail is rejected.

3. The appellant is apprehending the arrest at the hands of police in connection with Crime No. 552/2024 registered with Police Station Khadan, Akola for the offence punishable under Sections 132, 296, 351(2), 351(3) of the Bhartiya Nyaya Sanhita, 2023, and Section 3(1)(r), 3(1)(s) of the Scheduled Caste and Scheduled Tribe (Prevention of Atrocities Act), 1989 (hereinafter referred to as 'the Atrocities Act').

4. The crime is registered on the basis of a report lodged by the informant, namely Sunil Dashrath Dabhade, on an allegation that the present appellant is working as Police Head Constable in Police Station, Khadan, and he was performing the said duty on 09/07/2024 from 8.00 a.m. till 8.00 p.m. While performing his duty, he was present in the police station. On 09/07/2024, at around 12.00 p.m., the informant had been to the police station, and he reported that his son had been kidnapped for human sacrifice, and upon receipt of such information, the inquiry was carried out. The son, mother, and wife of the complainant were present in the police station, and upon inquiry with them, it was found that the appellant, who is addicted to bad voices like drinking liquor and under the influence of liquor since last night, he was abusing them in a filthy language and was giving a threat of life to them. Therefore, they had left the house, and

they had taken shelter in one under constructed apartment. They have stated that they were hiding from the appellant, and the complaint lodged by the appellant is false. They have further disclosed that nobody has kidnapped their son Tanmay. When the appellant and his family members were brought before the Senior Inspector, the complainant had a complaint about the ill-treatment at the hands of the present appellant. The appellant had been to the table of the complainant and started shouting loudly and also abused him in filthy language. The appellant has abused him on the name of caste, and this incident happened in the presence of various persons in the police station, i.e., within the public view. The entire incident was also recorded in the CCTV footage installed in the police station. On the basis of the said report, police have registered the crime against the present appellant.

5. The learned counsel for the appellant submitted that, due to the previous dispute, this false FIR is lodged against him. As far as the offences alleged against the present appellant are concerned, only the offence under Section 351(2) is a non-bailable offence. He submitted that no prima-facie case is made out, and therefore, the observation of the learned Special Court that bar attracted is erroneous. He submitted that there is only a reference of the caste, which is not sufficient to attract the provisions of the Atrocities Act. In view of that, the order passed by the learned Special Court

deserves to be quashed and set aside.

6. The learned APP and learned counsel for the informant strongly opposed the said application and submitted that from the recitals of the FIR, it reveals that the informant was abused in filthy language by the present appellant, who is serving as a Police Constable. This incident is not only witnessed by the various witnesses, but it is recorded in the CCTV camera installed in the Police Station. Thus, prima-facie case is made out against the present appellant, and therefore, bar under Section 18 is attracted. In view of that, the learned Special Court has rightly rejected the application, and the appeal is devoid of merits and liable to be dismissed.

7. Heard learned counsel for the appellant as well as learned counsel for the complainant and learned APP for respondent/State. Perused the investigation papers, from which it reveals that the appellant, who is serving as a police constable, has lodged the report regarding the kidnapping of his son, and the inquiry was conducted by the informant. During the inquiry, it was revealed to the informant that due to the behavior of the present appellant, his family members left the house and took shelter in under constructed apartment. They approached the informant and narrated about the said incident. Therefore, the present appellant was called before Senior Inspector, but the present appellant has

abused the informant in filthy language. This incident was recorded in the CCTV footage installed in the Police Station. During the investigation, the CCTV footage was also collected by the investigating officer, which shows that the alleged incident has taken place within the public view and also abuses not merely the reference of the caste, but the abuses on the caste. The abuses appear to be in very filthy language.

8. Thus, considering the same, the learned Special Court has rightly rejected the application and prima-facie case is made out against the present appellant, and therefore, bar under Section 18 is attracted. In view of that, the application deserves to be rejected, and therefore, no interference is called for.

9. In view of the above facts and circumstances, the appeal is devoid of merits and liable to be dismissed.

10. The fees of the appointed counsel be quantified as per Rule.

[URMILA JOSHI-PHALKE, J.]