



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

CRIMINAL APPEAL NO. 585 OF 2023

APPELLANT:

- 1] Pravin s/o Manohar Chaudhari,
Aged about 46 years, Occu: Agriculturist.
- 2] Gaurav s/o Prakashrao Uike,
Aged about 21 years, Occu: Labour.
Both R/o Ward No.1 Dhamangaon
Railway, Tq. Dhamangaon Railway
District Amravati.
- 3] Ashish s/.o Ramesh Bissa,
Aged about 37 years, Occu: Agriculturist,
R/o Ward No. 3, Dhamangaon Railway,
Tq. Dhamangaon Railway,
District Amravati.
- 4] Kunal s/o Prakash Chaudhari,
Aged about 23 years, Occu: Education,
R/o Dhamangaon Railway,
Tq. Dhamangaon Railway,
District Amravati.

...VERSUS...

RESPONDENTS

- 1] State of Maharashtra,
through Police Station Officer,
Police Station Chandur Railway,
Tq. Chandur Railway, District Amravati.
- 2] Vinod Bhaskarrao Bondre,
Aged about 42 years, Occu: R/o Ismailpur,
Tq. Chandur Railway, District Amravati.

Mr. P.R.Agrawal, counsel counsel for appellant.

Mrs. Sneha Dhote, APP for Respondent No.1.

Mrs. Anuprita S. Mishrikotkar, counsel (appointed) for respondent
No.2.

CORAM : URMILA JOSHI-PHALKE, J.
DATE : 01/03/2024

ORAL JUDGMENT :

1. Heard. **Admit.**
2. Heard finally with the consent of the learned counsel appearing for the parties.
3. By preferring this appeal, the appellants have challenged the order passed by the learned Special Judge and Additional Sessions Judge-2, Amravati in Criminal Bail Application No. 937/2023, by which the application of the present appellants are rejected.
4. The present appellants are arraigned as accused, in connection with Crime No. 329/2023 registered with Police Station Chandur Railway, District Amravati for the offences punishable under Sections 143, 147, 148, 326 read with Section 149 of the Indian Penal Code, 1860 and under Sections 3(1)(r), 3(1)(s) and 3(2(v) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 (for short 'the Act of 1989'). The allegation against the present appellants is that on 29/06/2023 at about 4.00 p.m. when the informant and his wife

had been to the agricultural field and agricultural operations are going on, at that time, the present appellants entered into the field along with the Tractor, and destroyed the crops of the informant and also assaulted him and his wife by stick and irons rods. On the basis of said report, the police have registered the crime against the present appellants.

5. After registration of the crime, the present appellants approached to the Special Court for grant of bail in the event of their arrest by filing Criminal Bail application No. 937/2023. The Special Court considered the application and rejected the application by observing that the weapons of the offences are yet to be seized and custodial interrogation is required. It is further held that the specific role is attributed to the present appellants and rejected the application.

6. Being aggrieved and dissatisfied with the same, the present appeal is preferred by the appellants on the ground that now, the incriminating articles i.e. weapons are already seized. The custodial interrogation of the present appellants is not required. As far as the applicability of provisions of the Act of 1989 which are not applicable, as there is no allegation against the present appellants that though appellants were aware that the informant

and his wife belongs to the Scheduled Caste and Scheduled Tribe with an intention to insult or humiliate within the public view, they were abused and assaulted by them and therefore, the provisions of Act of 1989 are not applicable.

7. It is further submitted by the learned counsel for the appellants that as the provisions of the Act of 1989 are not applicable, therefore, the bar under Section 18-A has not attracted. There is a previous dispute between the appellants and the informant in the agricultural land. Considering the weapons are already recovered, nothing is to be seized from the present appellants, their custodial interrogation is not required. In view of that, they praying for grant of anticipatory bail.

8. The learned APP and learned counsel for respondent No.2 strongly opposed the application on the ground that the tractor which was used in destroying the crops is yet to be seized. The custodial interrogation of the present appellants is required. The appellants have caused grievous injuries to the informant and his wife and therefore, the appeal is devoid of merits and liable to be dismissed.

9. After hearing learned counsel for the appellant and learned Respondent No.2, perused the investigation papers.

During the investigation, the investigating officer collected the injury certificate which shows that the injured had sustained lacerated wounds on the left leg and right leg. After treatment, the injured are discharged from the hospital. Statement of the injured is also recorded. The recitals of the FIR show that the present appellants entered into the agricultural field and caused damage to the crop. As far as the custodial interrogation of the present appellants is concerned, the investigation papers shows that weapons used by the present appellants are already seized.

10. The learned APP vehemently submitted that the seizure of the tractor is important and therefore, custodial interrogation is required. I am not impressed by this submission, as the spot panchanama is already drawn by the Investigating Officer from which, it can be ascertained whether the crop is destroyed or not. For that purpose, the seizure of the tractor is not required.

11. Coming to the aspect of the bar under Section 18-A of the Act of 1989 admittedly, there is no allegation against the present appellants, that they either abused the injured on their caste, even though there is no reference by the present appellants of the caste of the informant or his wife. There is no allegation in the FIR that though the appellants were aware about the caste of

the informant and his wife, they were abused within the public view.

12. Now, it is well settled that there is no complete bar to entertain the application for anticipatory bail when the offence is registered under the provisions of the Act of 1989. In the case of *Prathvi Raj Chauhan V/s Union of India and others [(2020) 4 SCC 727]*. The Hon'ble Apex Court already dealt with this issue and held that ground of anticipatory bail under Section 438 of the Code of Criminal Procedure is barred, in respect of the offences under the Act of 1989. However, where prima-facie case is not made out, anticipatory bail can be granted in appropriate circumstances with a cautious exercise of power. Section 18 and 18A of the Act of 1989 has no application, where prima-facie case is not made out.

13. In view of the above observations, the bar under Section 18-A of the Act of 1989 is not attracted as no prima-facie case to attract the provision of the Act of 1989 is made out. As far as the offence under the provisions of the Indian Penal Code is concerned, the injury certificate is already on record which shows that the injured is discharged from the hospital and sustained the injuries which is in the nature of laceration. The incriminating

weapons are already recovered and nothing is to be seized from the appellants. In view of that custodial interrogation of the present appellants is not required and therefore, the appeal deserves to be allowed. Moreover, the learned trial Court ought to have considered this aspect while passing the order in the bail application. Considering the above circumstances, I proceed to pass the following order:

- a) The criminal appeal is **allowed**.
- b) The order passed by the learned Special Judge and Additional Sessions Judge-2, Amravati, in Criminal Bail Application No. 937/2023 dated 18/08/2023 is hereby quashed and set aside.
- c) In the event of their arrest, the appellants (1) **Pravin s/o Manohar Chaudhari** (2) **Gaurav s/o Prakashrao Uike** (3) **Ashish s/o Ramesh Bissa** (4) **Kunal s/o Prakash Chaudhari**, are released on anticipatory bail, in connection with Crime No. 329/2023 registered with Police Station Chandur Railway, District Amravati for the offences punishable under Sections 143, 147, 148, 326 read with Section 149 of the Indian Penal Code, 1860 and under Section 3(1)(r), 3(1)(s) and

3(2(v) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989, on executing PR Bond in the sum of Rs. 25,000/- each with one solvent surety in the like amount.

- d) The appellants shall not directly or indirectly make any inducement, threat or promise to any person who are acquainted with the facts of the present case.
- e) The appellants shall not enter into the gut No. 60 which is in dispute till the culmination of the trial.
- f) The fees of the appointed counsel be quantified as per the rules.

The Criminal Appeal is **disposed of** accordingly.

[URMILA JOSHI-PHALKE, J.]